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ABSTRACT

This report provides a general overview of those State constitutional provisions and some of the related statutes and case law that must be considered in designing school finance legislation and in understanding the issues being raised in school finance litigation in State courts throughout the country. While the publication was designed primarily as a research tool for lawyers and legislators already familiar with school finance issues, it can be used by laymen as well to obtain a general understanding of the kinds of requirements demanded by State constitutions. The first part of the document is composed of four summary tables that analyze, classify, and compare the major categories of constitutional provisions more fully detailed in the second part. The second part offers a State-by-State compendium of those constitutional provisions most likely to be important in determining educational requirements, selected statutory material signifying the importance attached to the education function by eact State, and interpretative case law indicating the particular constitutional gloss given those provisions by the State courts. (Author/JF)

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State Constitutional Provisions and Selected Legal Materials Relating to Public School Finance

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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Introduction

Background and Purpose

In March of 1973 the Supreme Court of the United States rejected the argument, presented by the plaintiffs in *San Antonio Independent School District* v. *Rodriguez*, that a school finance system relying heavily on local property taxes to determine the level of per-pupil expenditures in public elementary and secondary schools was unconstitutional under the Fourteenth Amendment of the United States Constitution. With recourse to the Federal judiciary effectively closed by that decision, further challenges to State school finance systems will have to be brought in State courts, relying on State constitutions and statutes for legal theories. Legislators contemplating changes in existing school finance plans must now look to the law and the courts of their own individual State for guidance and standards as to what kind of finance system would be appropriate and acceptable within that State's constitutional tradition and structure.

With this background in mind, the U.S. Office of Education, in cooperation with the Lawyers' Committee for Civil Rights Under Law, has prepared this compendium to provide a general overview of those State constitutional provisions and some of the related statutes and case law that must be considered in designing school finance legislation and in understanding the issues being raised in school finance litigation in State courts throughout the country.

While the publication was designed primarily as a research tool for lawyers and legislators already familiar with school finance issues, it can be used by laymen as well to obtain a general understanding of the kinds of requirements demanded by State constitutions.

The purpose of the publication is twofold: first, to familiarize the reader with the major relevant constitutional provisions for each individual State; and second, to provide a mechanism for general comparisons of the types of constitutional provisions present in all 50 States.

Contents

The publication is in two parts. The first is composed of four summary tables that analyze, classify, and compare the major categories of constitutional provisions more fully detailed in the second part. The second part is a compendium with a section for each State listing those constitutional provisions most likely to be important in determining educational requirements, selected statutory material signifying the importance attached to the education function by each State, and interpretative case law indicating the particular constitutional gloss given those provisions by the State courts. Each State's section contains five parts: A. General Provisions, B. Education Provisions, C. Taxing Provisions, D. Compulsory Attendance Statutes, and E. School Finance Policy.

A. Summary Tables

The first part of the publication contains four summary tables analyzing for all 50 States the major types of constitutional provisions contained in Parts A, B, and C of the State sections. For each type of provision (i.e., equal protection, due process, education, tax uniformity), a table was prepared breaking down the constitutional language into those words and phrases recurring with some frequency from State to State. Unusual language or unique provisions were specified in footnotes where that was feasible. Occasionally the analysis included interpretations given to the provisions by the courts; when that was the case it was so noted. In many situations the language analyzed was found in several separate constitutional provisions, and reference should be made to the section for each State to determine the exact wording of those provisions.

B. Compendium of State Materials

The materials for each State are arranged as follows:

General Provisions include each State's constitutional guarantees for equal protection and due process, where they exist, as well as any general constitutional language that has been interpreted by the courts to imply these constitutional guarantees.

Education Provisions include those provisions of the constitution that indicate the extent of a State's responsibility to provide public education, delegate fiscal authority to tax for public school support, set up minimum standards for public education, and, in general, demonstrate the importance attached to education in each State.

Taxing Provisions included are those that require uniformity in the treatment of taxpayers in collecting revenues to pay for governmental services in general and education in particular.

Scattered throughout these first three categories are numerous provisions that are difficult to categorize but which the authors felt might be significant in determining the extent of a State's responsibility to assure equal educational opportunity to its students.

The last two sections, Compulsory Attendance Statutes and School Finance Policy, are included, not for their substantive requirements, but as indications of the States' general attitudes toward education and the importance attached to public schooling in the States' statutory schemes.

The general compulsory attendance provision in many State laws restricts the attendance requirement to public schools. This should not, however, be read as precluding attendance at accredited private or parochial schools since (a) provision for such attendance is generally found in later sections of the State education code and (b) such a restriction would be unconstitutional under the U.S. Supreme Court's ruling in *Pierce* v. *Society of Sisters*, 268 U.S. 510 (1925).

The School Finance Policy sections contain no information as to the actual workings of those systems but are included where they indicate some purpose on the part of the State legislature to equalize educational opportunities through the working out of the school finance mechanism. For the most part, these are statutory provisions. However, the reader should be aware that when the provision is preceded by an article and section number it is constitutional material.

Cautions

A compilation such as this is intended as a tool to be used in conjunction with more extensive research activities. While it was intended that the publication provide a general overview of State constitutional frameworks within which future judicial and legislative actions in school finance will take place, such a publication cannot be considered a comprehensive study of the constitutional structure of any State.

Limitations of time, staff, and library resources precluded an exhaustive survey of the case law of every State, so the legal interpretations presented should be treated as examples rather than as the definitive constructions of the provisions. This is especially true considering the fact that these interpretations are essentially quotations out of context. A careful look at the facts of each case is necessary before one can rely on the legal principles apparent on the face of the quotations.

For the most part the cases selected were those rendered by State supreme courts. Occasionally, however, particularly where State interpretations of the provisions were sparse or ambiguous, cases from Federal courts were included. But it should be kept in mind that the final arbiter of each State's law is that State's supreme court and that the Federal judiciary's interpretations of State law are only persuasive, not binding precedent, for State courts.

Two final notes of caution are necessary. First, the main effort in this study was to collect those types of provisions typically found in many State constitutions. In the process, provisions that are of peculiar importance to a particular State may have been missed. Therefore, for an individual State this compendium should be considered as a starting place for further study rather than as a definitive reference work. Second, although an attempt was made to include recent case law and legislative developments, in recent years events have tended to move fairly quickly in school finance, and some of the information included here may be quickly outdated.

Summary Tables

Table I.—Characteristics of State Constitutional Equal Protection Provisions

	None	Substantially the same language as the 14th Amend.[1]	Courts have interpreted same as the 14th Amend.	"Free and equal" language[2]	"Privileges and immunities" language[3]	"General law" language[4]	"Government for equal benefit" language[5]	"No discrimination in civil rights" language	General provision with equal protection read in by courts[6]
Alabama				x					
Alaska			x	x					
Arizona					x				
Arkansas				x	[7]x				
California			x		x	x			
Colorado	x								
Connecticut		[7]x		x	x				
Delaware	x								
Florida				x					
Georgia						x			
Hawaii				x					
Idaho				x	x		x		
Illinois		x				x			x
Indiana				x	x				
Iowa				x	x	x			
Kansas				x					
Kentucky				x	x				
Louisiana								[8]	x
Maine				x					
Maryland									x
Massachusetts				x					x
Michigan		[7]x	x				x	[7]x	
Minnesota			x						x
Mississippi	x								
Missouri			x	x					
Montana	x		x	x		x	x	x	
Nebraska								[9]x	
Nevada				x		x			
New Hampshire			x	x					x
New Jersey								[7]x	x
New Mexico		x		x					
New York		x						[7]x	
North Carolina			x	x					
North Dakota			x	x	x	x			
Ohio			x		x	x	x		
Oklahoma						x			
Oregon			x		x				x
Pennsylvania				x					
Rhode Island									x
South Carolina		x			x				
South Dakota			x	x	x				
Tennessee			x		x	x			
Texas					x				x
Utah						x	x		
Vermont				x	[9]x		[9]x		
Virginia				x					
Washington			x		x				
West Virginia				x			x		
Wisconsin			x	x					
Wyoming								[10]x	

Notes:

[1] E.g.—"Nor shall any person be denied the equal protection of the law."

[2] E.g.—"All persons are by nature free and equal and have certain inalienable rights. . . ."

[3] E.g.—"The General Assembly shall not grant to any citizen or class of citizens privileges or immunities which upon the same terms shall not equally belong to all citizens."

[4] E.g.—"All laws of a general nature shall have a uniform operation throughout the State and no special law shall be passed where provision can be made by general law."

[5] E.g.—"All political power is inherent in the people. Government is instituted for their equal protection and benefit."

[6] These provisions vary greatly from State to State and often exist along with other equal protection language. They are included to indicate that State courts have, in theory, great latitude in shaping the parameters of their State's equal protection guarantees.

[7] Limited to discrimination on the basis of race, religion, national origin, etc.

[8] No discrimination ". . . in respect to the acquisition, ownership, possession, enjoyment or descent of property."

[9] "Government is . . . instituted for the common benefit . . . and not for the particular emolument or advantage of any single man. . . ."

[10] "Since equality in the enjoyment of natural and civil rights is only made through political equality, the laws of this state affecting the political rights and privileges of its citizens shall be without distinction of race, color, sex, or any circumstances or condition whatever other than individual incompetency or unworthiness duly ascertained by a court of competent jurisdiction."

Table II.—Characteristics of State Constitutional Due Process Provisions

	None	Substantially the same language as the 14th Amend.	Courts have interpreted same as the 14th Amend.	Applies only to criminal cases	Applies only to procedure	"No deprivation of life, liberty, property, privileges, etc., except by . . . "judgment of peers"	"No deprivation of life, liberty, property, privileges, etc., except by . . . "the law of the land"	"For injuries suffered . . . remedy by due course of law"
Alabama		X		[1]X	[2]X			
Alaska	[2]X							
Arizona		X						
Arkansas		X						
California	X							
Colorado		X						
Connecticut	X							
Delaware			X			X	X	
Florida		X						
Georgia		X						
Hawaii		X						
Idaho		X						
Illinois		X						
Indiana	X							
Iowa		X						X
Kansas								
Kentucky	X							
Louisiana		X						
Maine			X	[1]X			X	
Maryland						X	X	
Massachusetts	[2]X							
Michigan		X		[1]X				
Minnesota			X	[1][2]X		X	X	
Mississippi		X						
Missouri		X						
Montana		X						
Nebraska		X						
Nevada		X						
New Hampshire	[2]X							
New Jersey	[2]X							
New Mexico		X						
New York		X				X	X	
North Carolina			X				X	
North Dakota		X						
Ohio			X		X			X
Oklahoma		X						
Oregon				[4]X	X			X
Pennsylvania				X		X	X	
Rhode Island				X		X	X	
South Carolina		X						
South Dakota		X						
Tennessee			X			X	X	X
Texas							X	
Utah		X						X
Vermont	X							
Virginia		X						
Washington		X						
West Virginia		X				X		
Wisconsin	[2]X		X					
Wyoming		X						

Notes: [1] Case law indicates that guarantee applies to civil cases as well.
[2] Contained in separate provision from general due process guarantee.
[3] Contains some general language that courts have read as a due process guarantee.
[4] Case law indicates that guarantee applies generally to criminal and tort cases.

Table III.—Characteristics of State Constitutional Education Provisions

	General statement about the importance of education	"Schools"			"System"					"Throughout the state"	"Open to all"	"By general law"	"No local / special / or private laws"	State or legislative responsibility for education	"Legislature shall provide for . . ."					Fiscal power at least partly delegated to locals	Age or grade requirements	Minimum school terms	Constitutional compulsory attendance provision
		free	public	common	thorough	efficient	uniform	general	other						"establish"	"maintain"	"support"	"organize"	"control"				
Alabama			x						liberal	x				x	x	x		x		x	7-21 yrs.		
Alaska			x								x	x		x	x	x							
Arizona			x				x	x			x			x	x	x						6 mos.	
Arkansas	x	x	x	x		x		x	suitable			x		x		x				x			
California	x	x		x							x		x	x								6 mos.	
Colorado		x	x		x		x			x	[1]x			x	x	x					6-21 yrs.		
Connecticut		x	x											x							elementary & secondary		
Delaware		x	x			x		x						x	x	x							x
Florida		x	x				x							x									
Georgia														x						x			
Hawaii			x						statewide					x	x		x		x				
Idaho	x	x	x	x	x		x	x						x	x	x							
Illinois	x	x	x											x							free through secondary		
Indiana	x	x		x		x	x	x			[1]x		x	x									
Iowa	x			x							x			x									
Kansas	x			x			x							x	x								
Kentucky				x		x				x				x									
Louisiana			x										x	x									
Maine	x		x											x						x			
Maryland	x	x	x		x	x			judicious	x				x	x	x							
Massachusetts	x		x											x									
Michigan	x	x	x											x		x	x				elementary & secondary		
Minnesota	x		x		x	x	x	x						x	x								
Mississippi		x	x											[2]x	x	x	x				6-21 yrs.		
Missouri	x	x	x											x	x	x					up through 21 yrs.		
Montana		x	x	x	x		x	x						x	x	x					6-21 yrs.	3 mos.	
Nebraska		x		x										x							5-21 yrs.		
Nevada	x		x	x			x							x		x	x					6 mos.	x
New Hampshire	x																						
New Jersey		x	x		x	x							x	x		x	x				5-18 yrs.		
New Mexico		x	x				x				x		x		x	x						9 mos.	
New York		x		x							x			x		x	x						
North Carolina	x	x	x				x	x			[3]x			x		x				x	6-21 yrs.		
North Dakota	x	x	x				x			x	x		x	x	x	x					primary→higher ad.		
Ohio	x			x	x	x				x				x				x	x				
Oklahoma		x	x	x							x			x	x	x				x			
Oregon				x			x	x					x	x	x								
Pennsylvania			x		x	x								x		x	x						
Rhode Island	x		x											x									
South Carolina														x	x					x			
South Dakota	x	x	x	x	x	x	x	x		x	[1]x			x		x				x			
Tennessee	x			x						x	[5]x			[4]									
Texas	x	x	x			x								x	x	x	x						
Utah			x								x		x	x	x	x							
Vermont	x													x									
Virginia		x	x							x	x			[6]x						x	elementary & secondary		
Washington			x				x	x			x			[7]x									
West Virginia	x	x			x	x						x		x						x			
Wisconsin		[8]		x		[8]x								x	x					x			
Wyoming	[9]x		x		x	x	x		complete		x			x	x	x							

Notes: [1] "equally open to all"
[2] Legislature has discretion whether or not to provide public education; local governmental units may abolish public school systems.
[3] "Wherein equal opportunities shall be provided for all students."
[4] Education clause repealed in 1965.
[5] ". . . for the equal benefit of all the people thereof."
[6] General Assembly has constitutional responsibility for overseeing the quality of public education in the state.
[7] "It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preferences on account of race, color, cost or sex."
[8] Requisites a system of ". . . historic schools which shall be as nearly uniform as practicable. . . ."
[9] "The right of the citizen to opportunities for education should have practical recognition."

Table IV.—Characteristics of State Constitutional Tax Uniformity Provisions

	None	"Taxes" uniform	"Taxes" or "tax rate" equal	"tax rate" by uniform rule	"Assessment" or "Valuation" uniform	"Assessment" or "Valuation" equal	"Throughout the State"	"By general laws"	"In proportion to value"	"Just valuation"	Classification not for real estate	Classification generally allowed	Uniformity required within taxing unit	Limitation on State property tax no State tax	Limitation on State property tax limited amount	Delegates part of taxing power to locals	Contains property tax relief provision
Alabama			[1] x		[2] x	[2] x			x		x						
Alaska	x																
Arizona	x														x	x	
Arkansas					x	x	x		x		x						
California	x																
Colorado		x	x			x		x		x		x	x				
Connecticut	x																
Delaware		x						x				x	x				
Florida		x											x	x			
Georgia		x						x				x	x				
Hawaii	x															x	
Idaho		x			[2] x			x	x			x	x				
Illinois		x			x						[3] x	[3] x	x				
Indiana		x	x		x	x				x		[2] x	[2] x				
Iowa	x																
Kansas		x	x		x	x					[4] x		[2] x				
Kentucky		x						x				x	x				
Louisiana		x										x	x				
Maine			[5] x			[5] x			[6] x	[6] x			[2] x				
Maryland		x										[7] x	x			x	
Massachusetts		[8]			[8]						[2] x						
Michigan		x			[2] x							x	[2] x				
Minnesota		x										x					
Mississippi		x	x	x			x	x	x				[2] x				
Missouri		x									x	x	x				
Montana[9]						[4] x		x				x	[4] x			[9] x	
Nebraska		x							x		[2] x			x			
Nevada		x	x		x	x				x		[2] x					
New Hampshire		[2] x							[2] [10] x				[2] x				
New Jersey				x		[11] x		x	[11] x		x	x	x			x	
New Mexico		x	x						x			x	[2] x				
New York	x																
North Carolina		[2] x	[2] x	x								x	x				
North Dakota		x						x				x	x				
Ohio				x					x		x	x	x		x		[12] x
Oklahoma		x						x				x				x	
Oregon		x		x	x		x	x				x	x				
Pennsylvania		x						x				x	x				
Rhode Island	x																
South Carolina		x	x		x	x						[2] x	[2] x				
South Dakota		x	x									x	[2] x		x		
Tennessee		x	x				x		x		x		[2] x				
Texas		[8]	x						x			[2] x		x		x	
Utah		x	x		x	x			x	x			[2] x			x	
Vermont												[2] x					
Virginia		x						x				x	x	x		x	
Washington		x									x	x	x				
West Virginia		x	x				x		x			[2] x					
Wisconsin				x												x	
Wyoming		x	x									[2] x					

Notes: [1] "Property . . . shall forever be taxed at the same rate. . . ."
[2] Case law interpretation
[3] Allowed for real estate only in counties with population of more than 200,000.
[4] With certain exceptions, not including real estate.
[5] "apportioned and assessed equally"
[6] "according to just value"
[7] No classification of land allowed, but classification of improvements on real property allowed.
[8] "Proportional and reasonable assessments rates and taxes"
[9] State has adopted a new constitution that requires State assessment for property taxes, requires localities to use State valuation, and includes a local accountability provisions.
[10] "proportional valuation"
[11] "according to the same standard of value"
[12] Grants property tax relief to persons over 65 years of age.

Compendium of State Constitutional Provisions and Related Materials

ALABAMA

A. General Provisions

1. Art. I, Sec. 1—"That all men are equally free and independent; that they are endowed by their creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness."

a. *National Motors Fleets, Inc.* v. *Brown*, 282 Ala. 572, 213 So. 2d 570 (1968), "The question presented is whether the legislature, in conformity with constitutional requirements for equal protection and against arbitrary discrimination, can classify appellant's vehicle with vehicles operated for hire for the purpose of imposing a license tax. . . . We are of the opinion that it is reasonable and permissible to classify appellant's vehicle with other vehicles which use the public highways to make a profit for the vehicle owner by transporting the property of others."

b. *Dillon* v. *Hamilton*, 230 Ala. 310, 160 So. 708 (1935), "It is not necessary for a general law fixing fees and allowances to apply uniformly to the whole state, provided it applies in some form to it all. . . . We have often held that a general law may have unequal public application . . . but not as it may affect individuals, private corporations, or associations, who are entitled to the equal protection of the laws."

c. *Woco Pep Co. of Montgomery* v. *Montgomery*, 213 Ala. 452, 105 So. 214 (1925), "The adjudicated cases are to the effect that, in creating classes upon whom the taxing powers may be laid, (a) such class declared must have a reasonable relation to the subject of legislation; (b) the law must be uniform in its operation, and administration upon the subjects of the same class, so that each be made to bear equally and uniformly the burden imposed, and (c) the burden must be reasonable."

2. Art. I, Sec. 6—"That in all criminal prosecutions, the accused . . . shall not be . . . deprived of life, liberty, or property, except by due process of law. . . ."

a. *Pike* v. *Southern Bell Telephone and Telegraph Co.*, 263 Ala. 59, 81 So. 2d 254 (1955) [on rehearing], "Counsel for the appellee insists with great vigor that section 6 of the Constitution of Alabama 1901 affords no protection against an abuse of 'due process of law' except in criminal cases . . . ; the Supreme Court of Alabama has consistently and repeatedly required due process of law in civil, as well as criminal cases."

b. *Opinion of the Justices*, 252 Ala. 527, 41 So. 2d 775 (1949), "While due process and equal protection guaranties are not coterminous in their spheres of protection, equality of right is fundamental in both. Each forbids class legislation arbitrarily discriminatory against some and favoring others in like circumstances. . . . It is essential that the classification itself be reasonable and not arbitrary, and be based upon material and substantial distinctions and differences reasonably related to the subject matter of the legislation or considerations of policy and that there be uniformity within the class."

3. Art. I, Sec. 13—"That all courts shall be open; and that every person, for any injury done him, in his lands, goods, person or reputation, shall have a remedy by due process of law." (This provision deals only with procedural, not substantive, due process.)

4. The Constitution of 1875 contained the following provision which was omitted from the present Constitution adopted in 1901: Art. I, Sec. 2—"That all persons resident in this state, born in the United States, or naturalized, or who shall have legally declared their intention to become citizens of the United States, are hereby declared citizens of the State of Alabama, possessing equal civil and political rights."

B. Education Provisions

1. Art. XIV, Sec. 256—"The legislature shall establish, organize, and maintain a liberal system of

public schools throughout the state for the benefit of the children thereof between the ages of seven and twenty-one years. The public school fund shall be apportioned to the several counties in proportion to the number of school children of school age therein, and shall be so apportioned to the schools in the districts or townships in the counties as to provide, as nearly as practicable, school terms of equal duration in such school districts or townships."

a. *Mitchell* v. *McCall*, 273 Ala. 604, 143 So. 2d 629 (1962), "Appellant vigorously argues what he describes as his constitutional right to have his children educated in the public schools of the state. In this connection, it should be observed that the State of Alabama is under no constitutional obligation to provide public schools. . . . Clearly, appellant's daughter does not have a right to make use of such facilities if they are in fact provided by the state. However, appellant's daughter is free to refrain from attending the public schools since Alabama does not require public school attendance."

b. *Vincent* v. *County Bd. of Education*, 222 Ala. 216, 131 So. 893 (1931), "The Constitution requires a 'liberal system of public schools.' This means that the schools shall be liberally maintained, and that they should be open to common and general use."

2. Article XIX, Sec. 3 [Amendment III—Special School Tax Amendment]—"The funds arising from the special county school tax levied and collected by any county shall be apportioned and expended as the law may direct, and the funds arising from the special school tax levied in any district which votes the same independently of the county shall be expended for the exclusive benefit of the district, as the law may direct."

C. Taxing Provisions

1. Art. XII, Sec. 211—"All taxes levied on property in this state shall be assessed in exact proportion to the value of such property. . . ."

2. Art. XII, Sec. 217—"The property of private corporations, associations, and individuals of this state shall forever be taxed at the same rate. . . ."

a. *Hamilton* v. *Adkins*, 250 Ala. 557, 35 So. 2d 183 (1948), "Sections 211 and 217 are aimed at securing a practical and common sense equality in taxation. Exact equality is not to be expected nor is it required. . . .

"But for the sake of the record it is a mistake to think that these sections [211 and 217] are exactly equivalent to an equal protection clause. The equal protection clause in the Constitution of 1875 was dropped from the Constitution of 1901. . . . In other words, the right of any of the appellees to be protected against discrimination under the state constitution must be rested on lack of due process and the general idea of uniformity rather than on an express provision for equal protection. . . .

"To sum up the situation, the effect of the equal protection clause of the Federal Constitution and state uniformity requirements are substantially similar and what violates the one will contravene the other. . . . In short, there must be a systematic and intentional discrimination before the state constitution is violated."

b. *Monroe Bond & Mortgage Co.* v. *State*, 254 Ala. 278, 48 So. 2d 431 (1950), "The discrimination which violates constitutional rights is that which results from applying a percentage of the fair and reasonable market value of the property in excess of that systematically used in respect to other property in the county and that this results from a purpose or design to discriminate against the taxpayer, either specifically or as a member of a class, but if there is a fair and honest judgment manifested in fixing the assessed value and a purpose to deal fairly without discrimination by a systematic method, the principle of inequality is not manifest."

c. *State* v. *Alabama Power Co.*, 254 Ala. 327, 48 So. 2d 445 (1950), "From the foregoing cases [relating the history of sections 211 and 217] it appears without question that systematic and intentional discrimination in the assessment of property taxes is prohibited by what are now sections 211 and 217 of the Constitution of 1901. . . . The state insists that §§ 211 and 217, which together with the due process clauses afford the equivalent of the equal protection to taxpayers . . . must be tested by the rules applicable to the 14th Amendment to the Federal Constitution. . . . While the latter is not necessarily violated by classification, a state constitution such as that of Alabama is violated by classification for tax assessment purposes unless there is uniformity and equality among taxpayers, 'private corporations, associations, and individuals alike,' both as to ratio percentage of taxation and also as to rate of taxation."

D. Compulsory Attendance Statute

1. Tit. 52, Sec. 297—"Every child between the ages of seven and sixteen years shall be required to attend a public school, private school, denominational school, parochial school, or be instructed by a competent private tutor, for the entire length of the school term in every scholastic year."

E. School Finance Policy Statement

1. Tit. 52, Sec. 208—"There is established a fund for the public elementary and high schools of the State which shall be known as the minimum program fund, and which shall be used for providing a minimum school term and for the equalization of educational opportunity."

2. Tit. 52, Sec. 209—"This minimum program fund shall be used principally (1) to aid in providing at least seven months' minimum term for all schools, and (2) to assist in the promotion of equalization of educational opportunity for all children in the public elementary and high schools."

ALASKA

A. General Provision

1. Art. I, Sec. 1—"This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the state."

a. *Brown* v. *Anderson*, 202 F. Supp. 96 (1966), involving fishing rights of nonresidents held that the counterpart to the privileges and immunities clause, due process clause and equal protection clause of federal constitution are found in Art. I, Sec. 1 of Alaska Constitution.

B. Education Provision

1. Art. VII, Sec. 1—"The legislature shall by general law establish and maintain a system of public schools open to all the children of the state."

C. Taxing Provision

None

D. Compulsory Attendance Statute

1. Tit. 14, Chap. 30. 1. 514. 40.010—"Every child between 7 and 16 years of age shall attend school at the public school in the district in which the child resides during each school term."

E. School Finance Policy Statement

1. Chap. 17, Art. I, Sec. 14.17.010—"The purposes of the public school foundation program is to provide a uniform system of public schools throughout the state." (1962 Op. Att'y Gen. No. 18.)

ARIZONA

A. General Provisions

1. Art. II, Sec. 4—"No person shall be deprived of life, liberty or property without due process of law."

2. Art. II, Sec. 13—"No law shall be enacted granting to any citizen, class of citizens or corporation other than municipal privileges and immunities which, upon the same terms, shall not equally belong to all citizens or corporations."

a. *McAhren* v. *Bradshaw*, 52 Ariz. 342, 113 P. 2d 932 (1941), "There can be no question that the people of a state may adopt any method of taxation which they desire so long as it is not in conflict with the federal constitution. They may impose taxes on one class of citizens and exempt others. They may subject one class of property to taxation but exclude others from the same tax. They may provide for the levy of an ad valorem tax on one class of property and that no such tax shall be levied on other classes. The only restriction of the federal constitution on such state action is that the classification made by the state must not be so arbitrary and unreasonable as to deny to citizens the protection of the laws relating to licensing of autos."

b. *Humphrey* v. *City of Phoenix*, 55 Ariz. 374, 102 P.2d 82 (1940), "It is abundantly settled by the courts that making provision for the housing of persons of low income does not violate the constitutional provision against the granting of . . . [special privileges and immunities]. . . . The right to classify persons and things is recognized as a general right possessed by the legislature. In Hazas v. State . . . we said: "***Laws operating uniformly upon all of a class, when the classification has a basis founded in reason, are not obnoxious to any constitutional provision with which we are familiar. Legislation of the kind is common and often necessary. The legislative judgment in all matters, unless palpably arbitrary, is controlling upon the courts."

B. Education Provisions

1. Art. XI, Sec. 1—"The legislature shall enact such laws as shall provide for the establishment and maintenance of a general and uniform public school system."

2. Art. XI, Sec. 8—"The income derived from the investment of the permanent school fund shall be apportioned annually to the various counties of the state in proportion to the number of pupils of school age residing therein."

3. Art. XI, Sec. 9—". . . and the legislature shall enact such laws as will provide for increasing the county fund sufficiently to maintain all the public schools of the county for a minimum term of six months in every school year."

4. Art. XI, Sec. 10—". . . . In addition to such income the legislature shall make such appropriations, to be met by taxation as shall insure the proper maintenance of all state educational institutions."

5. Art. XX, Para. Seventh—"Provisions shall be made by law for the establishment and maintenance of a system of public schools which shall be open to all the children of the state."

C. Taxing Provision

1. Art. IX, Sec. 1—"All taxes shall be uniform upon the same class of property within the territorial limits of the authority levying the tax and shall be levied and collected for public purposes only."

D. Compulsory Attendance Statute

1. Tit. 15, Art. II, Sec. 15-32—"Every person who has custody of a child between the ages of 8 and 16 years shall send the child to a public school for the full time school is in session within the district in which the child resides."

E. School Finance Policy Statement

None.

A. General Provisions

1. Art. II, Sec. 2—"All men are created equally free and independent and have certain inherent, and inalienable rights. . . ."

2. Art. II, Sec. 3—"The equality of all persons before the law is recognized, and shall ever remain inviolate; nor shall any citizen ever be deprived of any right, privilege or immunity, nor exempted from any burden or duty, on account of race, color or previous condition."

3. Art. II, Sec. 8—"No person shall be . . . deprived of life, liberty or property, without due process of law."

4. Art. II, Sec. 18—"The General Assembly shall not grant to any citizen or class of citizens privileges or immunities which upon the same terms shall not equally belong to all citizens."

a. *Rebsamen Motor Company* v. *Phillips,* 226 Ark. 146, 289 S.W. 2d 170 (1956), "To hold that under its police power the legislature could enact such legislation [requiring franchised automobile dealers to pay a license fee while exempting unfranchised dealers] . . . is clearly, we think, an arbitrary classification and in conflict with section 18, Article 2 of the Constitution of the State of Arkansas. . . ." (See also *Clinton* v. *General Motors Corp.,* 229 Ark. 805, 318 S.W. 2d 577 (1958).)

b. *Edelmann* v. *City of Fort Smith,* 194 Ark. 100, 105 S.W. 2d 528 (1937), "The statute under consideration [entitling veterans to engage in legal businesses without paying either State, county, city, or town license or tax for the privilege of doing so] unquestionably grants to a class of citizens privileges or immunities, which upon the same terms do not equally belong to all, and is therefore violative of section 18 of Article II of the Constitution, and is void."

c. *State* v. *Johnson,* 172 Ark. 866, 291 S.W. 89 (1927), "The proviso clearly means that before a bona fide resident of the state can pay a resident license to take fish out of the waters of the state with artificial bait, he or she must have attained to his or her majority, paid a poll tax, and have resided in the state a year. . . . The attempted classification is . . . wholly foreign to the subject in hand, that of a right to fish, and is an unjust, unreasonable classification. . . . Classifications of the citizenship to whom privileges and immunities are granted must be reasonable and just, else there is necessarily an arbitrary discrimination between the citizens embraced in the class, or between the class, and all other citizens of the state."

B. Education Provisions

1. Art. XIV, Sec. 1—"Inteliigence and virtue being the safeguards of liberty and the bulwark of a free and good government, the state shall ever maintain a general, suitable and efficient system of free public schools and shall adopt all suitable means to secure to the people the advantages and opportunities of education. The specific intention of this amendment is to authorize that in addition to existing constitutional or statutory provisions the General Assembly and/or public school districts may spend public funds for the education of persons over twenty-one (21) years of age and under six (6) years of age, as may be provided by law, and no other interpretation shall be given to it." (As amended, 1968.)

a. *LeMaire* v. *Henderson,* 174 Ark. 936, 298 S.W. 327 (1927), "To effectuate the purposes of the Constitution, this court has recognized generally that the Legislature has what is commonly called a free hand in the establishment and division of the state into school districts. The power given to the Legislature to classify school districts in any reasonable manner is no longer an open question in this state, and a legitimate classification has been upheld generally unless it has clearly gone beyond reasonable limits in defining the classification."

b. *Krouse* v. *Thompson,* 138 Ark. 571, 211 S.W. 925 (1919), "We have frequently held that the legislative control over the organization of school districts and changes therein is supreme. . . . School facilities must, of course, be afforded where taxation for the maintenance of the schools is imposed, but precise equality and uniformity is unattainable, especially in the matter of furnishing school facilities. . . . Approximate equality and uniformity is all that is expected or required."

2. Art. XIV, Sec. 3—"The General Assembly shall provide for the support of common schools by general law . . . ; and school districts are hereby authorized to levy by a vote of the qualified electors respectively thereof an annual tax for the maintenance of schools, the erection and equipment of

school buildings and the retirement of existing indebtedness, the amount of such tax to be determined in the following manner:

"[By majority vote in annual school election voting on a proposed budget]. . . .

"Provided, that no such tax shall be appropriated for any other purpose nor to any other district than that for which it is levied."

a. *Bonner* v. *Snipes*, 103 Ark. 298, 147 S.W. 56 (1912), "Nor will it be a diversion of the funds of any of the common school districts, within article XIV, section 3, of the Constitution, organized into such rural special districts, since all the moneys collected for school purposes under the laws of the state, belonging theretofore to each of such common school districts, were collected for the benefit of the inhabitants thereof from the property situated therein, all of which are now located within the confines of the new district, as established under the authority of this act."

b. *School District of Hartford* v. *West Hartford Special School District*, 102 Ark. 261, 143 S.W. 895 (1912), "Again it is contended by counsel for appellee that the fund could not be apportioned between the districts because the section of the Constitution in question provides that no such tax shall be appropriated to any other district than that for which it was levied. . . . As a part of [the legislature's] power, it may make provision for the division of the property, and the apportionment of the funds of the old corporation when a portion of its territory is transferred to the jurisdiction of another school district. The state is the beneficial owner of the fund, and the various school districts, in which the title to the property or funds vests, are trustees for the state, holding the property and devoting it to the use which the state directs. . . . We do not think the statute in question contravenes either the spirit or letter of the Constitution. In other words, in the case before us, there was a mere alteration of the lines of the district, and the fund transferred was raised by a tax on the people owning and residing upon the lands, which were also transferred. In such case, we do not think it can be said that the tax is appropriated to any other district than that for which it was levied."

c. *Terry* v. *Thornton*, 207 Ark. 1019, 183 S.W. 2d 787 (1944), "In the Austin case we were considering the constitutionality of an Act of the legislature claimed to be a diversion of school funds. Here we are considering an initiated County Salary Act. . . . The same constitutional provision that prevented the legislature from diverting the trust funds of schools applies with equal force to the attempt of a County Salary Act to do the same thing. . . . The Act cannot create a surplus in the County General Fund at the expense of school funds, which are, in themselves, trust funds. What is saved the school funds through the reduction in the salary of county officials cannot, by the process here sought to be applied, be appropriated for county obligations, but can be expended only for school purposes."

C. Taxing Provisions

1. Art. II, Sec. 23—". . . [T]he General Assembly may delegate the taxing power, with the necessary restriction, to the State's subordinate political and municipal corporations to the extent of providing for their existence, maintenance and well being, but no further."

2. Art. V, Sec. 31—"No state tax shall be allowed, or appropriation of money made, except to raise means for the payment of the just debts of the state, for defraying the necessary expenses of government, to sustain common schools, to repel invasion and suppress insurrection, except by a majority of two-thirds of both houses of the General Assembly."

a. *Hudson* v. *Higgins*, 175 Ark. 585, 299 S.W. 1000 (1927), "The state having adopted this policy [to promote higher education] for the education of a part of its citizens and established this school for that purpose, to be operated by its trustees and agents, its maintenance becomes and is a necessary expense of government within the meaning of said constitutional provision."

3. Art. XII, Sec. 12—"Except as herein otherwise provided, the state shall never assume or pay the debt or liability of any county, town, city or other corporation whatever. . . ."

a. *Ruff* v. *Womack*, 174 Ark. 971, 298 S.W. 222 (1927), "If reborrowing the permanent school fund on non-interest bearing bonds of the state for the purpose of lending the money to needy districts upon security could be characterized as assuming the debt of needy school districts, the prohibition would have no application to school districts. Corporations referred to in the section are private corporations engaged in private enterprise."

4. Art. XVI, Sec. 5—"All property subject to taxation shall be taxed according to its value, that value to be ascertained in such manner as the General Assembly shall direct, making the same equal and uniform throughout the state. No one

species of property from which a tax may be collected shall be taxed higher than another species of property of equal value. . . ."

a. *Pulaski County Board of Equalization* v. *American Republic Life Insurance Company*, 233 Ark. 124, 342 S.W. 2d 660 (1961), "In the levy and collection of property taxes classification is permissible only when it does not run counter to the fundamental requirement of equality. . . . But the differing methods of assessment must still result in all property of the same value being taxed at the same rate."

b. *Hays* v. *Missouri Pacific Railway Company*, 159 Ark. 101, 250 S.W. 879 (1923), "The object of this provision is to secure equality and uniformity in the imposition of the public burdens. The tax must be laid according to some rule of apportionment which is not arbitrary, but is such that the burden may be made to fall with something like impartiality upon the property sought to be taxed. The settled construction placed upon constitutional provisions similar to the one in question is that uniform taxation requires uniformity, not only in the rate of taxation, but in the mode of assessment upon the taxable valuation."

5. Art. XVI, Sec. 6—"The General Assembly shall not have power to levy state taxes for one year to exceed in the aggregate one percent of the assessed valuation of the property of the state for that year."

D. Compulsory Attendance Statute

1. Sec. 80–1502—"Every parent, guardian, or other person residing within the State of Arkansas and having in custody or charge any child or children between the ages of seven (7) and fifteen (15) (both inclusive) shall send such children to a public, private or parochial school under such penalty for non-compliance with this section as hereinafter provided."

E. School Finance Policy Statement

None.

CALIFORNIA

A. General Provision

1. Art. I, Sec. 11—"All laws of a general nature shall have a uniform operation."

a. *Serrano* v. *Priest*, 96 Cal Rpt. 601, 487 P.2d 1241 5 C 3 d 584 (1971). (This case should be read in its entirety as it is the first landmark school finance decision.)

b. *City of Sacramento* v. *Swanston*, 29 C.A. 212, 155 P. 101 (1915), "The class to which the law is solely to apply must be founded upon some material, intrinsic or constitutional distinction, and there must be no arbitrary discrimination." (Action in eminent domain.)

c. *Rogers Estate*, 245 C. A. 2d 101, 53 Cal. Reptr. 572 (1966). ". . . [T]here is no constitutional guaranty of equality of taxation. The power of states to discriminate in fixing the amount and incidence of taxation upon inheritances is undoubted."

d. *Mihans* v. *Municipal Ct.*, 7 C.A. 3d 479, 87 Cal. Rptr. 17 (1970), "Laws are usually to some extent inherently unequal; they are usually based on classifications of persons or property, and such classifications, if not arbitrary or made merely for the purposes of classification, are not violative of equal protection when based on some material and reasonable distinction in the classes, and having a substantial relation to the legitimate object to be accomplished." (Accord, *Blumenthal* v. *Medical Examiners*, 57 C. 2d 228, 18 Cal. Rptr. 501, 368 P. 2d 101 (1962).)

e. *Purdy & Fitzpatrick* v. *State*, 71 C. 2d 566, 79 Cal. Rptr. 77, 456 P. 2d 645 (1969), "The concept of equal protection of the laws requires a

classification, made by a State law, to reasonably relate to the purposes of the law and imposes on the State a burden to show that the classification constitutes a necessary means of accomplishing a legitimate State interest, and that the law serves to promote a compelling State interest.' (Classification by alienage.)

f. *Dept. of Mental Hygiene* v. *Kirchner,* 43 Cal. Rptr. 329, 400 P. 2d 321 (1965), "Articles I, Secs. 11 and 21 are substantially the equivalent of the equal protection clauses of the Fourteenth Amendment."

2. Art. I, Sec. 21—"No special privileges or immunities shall ever be granted which may not be altered, revoked, or repealed by the legislature, nor shall any citizen or class of citizens be granted privileges or immunities which, upon the same terms shall not be granted to all citizens."

a. *Franchise Motor Freight Ass'n* v. *Seavey,* 196 C. 77, 235 P. 1000 (1925), "It is well settled that a statute makes an improper and unlawful discrimination if it confers particular privileges upon a class arbitrarily selected from a larger number of persons all of whom stand in the same relation to the privileges granted." (Trucking regulations constitutionally invalid.)

b. *Sawyer* v. *Barbour,* 142 C.A. 2d 827, 300 P. 2d 187 (1956), "A law is special if it confers particular privileges or imposes peculiar disabilities or burdensome conditions in the exercise of a common right on a class of persons arbitrarily selected from the general body of those who stand in precisely the same relation to the subject of the law."

c. *Whitaker* v. *Superior Ct.,* 68 C. 2d 357, 66 Cal. Rptr. 710, 438 P. 2d 358 (1968), "Legislative classification as to treatment and procedure within a state judicial system according to factors such as geographical area, population or other relevant considerations, does not deny equal protection of the laws unless such classification is shown to be palpably arbitrary and without sound basis in reason."

d. *Mattson* v. *Contra Costa County,* 258 C.A. 2d 205, 65 Cal. Rptr. 646 (1968), "A taxpayer will not be relieved from paying a tax based upon a proper assessment of his property, even if other property of like character escapes taxation."

e. *In re King,* 3 C. 3d 226, 90 Cal. Rptr. 15, 474 P. 2d 983 (1970), "In cases involving suspect classifications or touching on fundamental interests, the State bears the burden of establishing not only that it has a compelling interest which justifies the law but that the distinctions drawn by the law are necessary to further its purpose." (Involving freedom to travel.)

B. Education Provisions

1. Art. IX, Sec. 1, "A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral and agricultural improvement."

a. *Piper* v. *Big Pine School District,* 193 C. 664, 226 P. 926 (1924), "The education of the children of the state is an obligation which the state took over to itself by the adoption of the Constitution. To accomplish the purposes therein expressed the people must keep under their exclusive control, through their representatives, the education of those whom it permits to take part in directly the affairs of state."

b. *Hall* v. *Taft,* 47 C. 2d 177, 302 P 2d 574 (1956). "School districts are agencies of the State for local operation of the State school system."

2. Art. IX, Sec. 5—"The legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year, after the first year in which a school has been established."

a. *Atherton* v. *Superior Ct.,* 159 C.A. 2d 417, 324 P. 2d 328 (1958), "This section and Article IV, § 25, subd. 27 vests the legislature with the absolute power to establish the State school system. . . . The public schools are a matter of statewide rather than local or municipal concern; their establishment, regulation and operation are covered by the Constitution and the legislature is given comprehensive powers in relation thereto."

b. *In re Shinn,* 195 C.A. 2d 683, 16 Cal. Rptr. 165 (1961), "The people of California recognize that maintenance of a democratic form of government depends in part upon an educated citizenry and declared in their constitution that a general diffusion of knowledge and intelligence was essential to the preservation of the rights and liberties of the people. . . . As a means of achieving a general diffusion of knowledge and intelligence, the legislature was directed to provide for a public school system of common free schools."

3. Art. IV, Sec. 25—"The legislature shall not pass local or special laws in any of the following enumerated cases . . . subdiv. 27—providing for the management of common schools."

C. Taxing Provision

None. (See Rogers Estate, *supra*.)

D. Compulsory Attendance Statute

1. Education Code Sec. 12 102—"Each parent, guardian or other person having control or charge of any child between the ages of 6 and 16 years, not exempted under the provisions of this chapter, shall send the child to the public full-time day school for the full time for which the public schools for the city and county or school district in which the child lives are in session."

E. School Finance Policy Statement

1. Education Code Sec. 17 265—"The legislature hereby declares that its sole motive in enacting this chapter is to provide a reasonable and equitable method for ascertaining the value of property located within school districts for use in connection with the administration of State laws providing for the allocation of State funds to such districts for school purposes on the basis of value. The Legislature hereby further declares that in enacting this chapter it has no intention to affect in any way, whether directly or indirectly, any determination of the assessed value of property for tax purposes; and it has no intention by such enactment to modify any phase or aspect of the process of property taxation in any respect whatsoever, except to the limited extent necessary for tax levy adjustment purposes in accordance with this chapter."

2. Sec. 17 300—"It is the intent of the legislature that the administration of the laws governing the financial support of the public school system in the State be conducted within the purview of the following principles and policies:

"The system of public school support should be designed to strengthen and encourage local responsibility for control of public education. Local school districts should be so organized that they can facilitate the provision of full educational opportunities for all who attend the public schools. Local control is best accomplished by the development of strong, vigorous, and properly organized local school administrative units. It is the State's responsibility to create or facilitate the creation of local school districts of sufficient size to properly discharge local responsibilities and to spend the tax dollar effectively.

"Effective local control requires that all local administrative units contribute to the support of school budgets in proportion to their respective abilities and that all have such flexibility in their taxing programs as will readily permit of progress in the improvement of the educational program. Effective local control requires a local taxing power and a local tax base which is not unduly restricted or overburdened.

"The system of public school support should assure that State, local, and other funds are adequate for the support of a realistic foundation program. It is unrealistic and unfair to tax less wealthy districts to provide for only a part of the financing necessary for an adequate educational program. . . .

"The system of public school support should effect a partnership between the State, the county and the local district, with each participating equitably in accordance with its relative ability. The respective abilities should be combined to provide a financial plan between the State and the local agencies known as the foundation program for public school support. Toward this foundation program, each county and district, through a uniform method should contribute in accordance with its true financial ability.

"The broader based taxing power of the State should be utilized to raise the level of financial support in the properly organized but financially weak districts of the State, thus contributing greatly to the equalization of educational opportunity for the students residing therein. It should also be used to provide a minimum amount of guaranteed support to all districts, for such State assistance serves to develop among all districts a sense of responsibility to the entire system of public education in the State. State assistance to all districts also will create a tax leeway for the exercise of local initiative."

COLORADO

A. General Provision

1. Art. II, Sec. 25—"No person shall be deprived of life, liberty or property, without due process of law."

a. *Liebhardt* v. *Revenue Dept.*, 123 Col. 369, 229 P. 2d 655 (1955), "[Subject to] the fundamental principle that a person whose property is to be subject to taxation must have notice and an opportunity to be heard as to the amount of the charges upon his property, legislative bodies may provide for any reasonable method, not arbitrary or unjust, for the levy and collection of taxes, and such procedures are not violative of the due process."

B. Education Provision

1. Art. IX, Sec. 2—"The general assembly shall, as soon as practicable, provide for the establishment and maintenance of a thorough and uniform system of free public schools throughout the state, wherein all residents of the state, between the ages of 6 and 21 years, may be educated gratuitiously. . . ."

C. Taxing Provision

1. Art. IX, Sec. 3—"All taxes shall be uniform upon each of the various classes of real and personal property located within the territorial limits of the authority levying the tax and shall be levied, assessed, collected under general laws, which shall prescribe such methods and regulations as shall secure just and equalized valuations for assessments of taxes upon all property real and personal, located within the territorial limits of the authority levying the tax."

D. Compulsory Attendance Statute

1. Sec. 123–20–3—"Every child who has attained the age of 7 years and under the age of 16, except as provided in this section, shall attend public school for at least 172 days during each school year."

E. School Finance Policy Statement

1. Sec. 123–39–2—"It is the purpose of this article to assist certain local school districts to carry out programs for educational achievement of these students in grades 1 through 6 who are below their assigned grade in reading. . . ."

2. Sec. 123–41–2—"The general assembly hereby declares that the purpose of this article is to institute an accountability program to define and measure quality in education and then to help the public school of Colorado to achieve such quality and to expand the life opportunities and options of the students of this state. . . ."

CONNECTICUT

A. General Provisions

1. Art. I, Sec. 1—"All men when they form a social compact, are equal in rights; and no man or set of men are entitled to exclusive public emoluments or privileges from the community."

a. *Montgomery* v. *Town of Branford*, 147 A.9, 109 Conn. 388 (1929), "If a tax denies to one enjoyment of rights secured by constitution equally to all, or seizes property for another's benefit, or

is uncompensated confiscation, the law authorizing the tax is void."

2. Art. I, Sec. 20—"No person shall be denied the equal protection of the laws nor be subjected to segregation or discrimination in the exercise or enjoyment of his civil or political rights because of religion, race, color, ancestry or national origin."

B. Education Provision

1. Art. VII, Sec. 1—"There shall always be free public elementary and secondary schools in the state. The General Assembly shall implement this principle by appropriate legislation."

C. Taxing Provision

1. Art. III, Sec. 1—"The legislative power of the state shall be vested in two distinct houses or branches."

a. *Montgomery* v. *Town of Branford,* 142 A. 574, 107 Conn. 697 (1928), "The general assembly cannot validate a tax which is class legislation."

b. *City of Norfolk* v. *Town of New Canaan,* 81 A. 1027, 85 Conn. 119 (1911), "There is no constitutional provision either expressed or implied that taxation shall be equal and uniform."

c. *State* v. *Travelers' Ins. Co.,* 47 A. 299, 73 Conn. 255, aff'd, 22 S. Ct. 673, 185 U. S. 364, 46 L. Ed. 949 (1900), "The provisions of our constitution exclude the possibility of a limitation of legislative power by implied mandate that taxation shall be equal and uniform. It is impossible to study the development of our law during two and a half centuries without reaching the certain conclusion that the right of the people to tax themselves through their representatives in the general assembly has always been held in reverence, and is distinctly secured by the constitution; that the duty to exercise the power of taxation wisely, and only for the public good, is a legislative duty, for the performance of which the general assembly is responsible to its constituency; that the power of considering the conditions of population or property, the theories and maxims of political economy or moral philosophy, which may affect taxation, and of determining what on the whole is a wise and fair mode of distributing the burden is a purely legislative power, and that the judicial department is, by express provision of the constitution forbidden to exercise that power."

D. Compulsory Attendance Statute

1. Sec. 10–184—"Each parent or other person having control of a child over 7 and under 16 years of age shall cause such child to attend a public school regularly during the hours and terms the public school in the district wherein such child resides is in session, or [during] which the school is in session in which provision for the instruction of such child is made according to law. . . ."

E. School Finance Policy Statement

1. Sec. 10–4a—"The education interests of the State shall include, but not be limited to, the concern of the State (1) that each child shall have for the period prescribed in the General Statutes equal opportunity to receive a suitable program of educational experience (2) that each school district shall finance at a reasonable level an educational program designed to achieve this end."

DELAWARE

A. General Provision

1. Art. I, Sec. 7—". . . [N]or shall he be deprived of life, liberty or property, unless by the judgment of his peers or by the law of the land."

a. *Ajax Distributors* v. *Springer,* 26 Del. Ch. 101, 22 A. 2d 838, affirmed 26 Del. 446, 28 A. 2d 309 (1941), The constitutional provision that no person shall be deprived of life, liberty or property unless by a judgment of his peers or by the law

of the land, has substantially the same meaning as the due process of law clauses of the Federal Constitution.

B. Education Provisions

1. Art. X, Sec. 1—"The General Assembly shall provide for the establishment and maintenance of a general and efficient system of free public schools, and may require by law that every child, not physically or mentally disabled, shall attend the public school, unless educated by other means."

2. Art. X, Sec. 2—"In addition to the income of the investments of the public school fund, the General Assembly shall make provisions . . . which . . . shall be equitably apportioned among the school districts of the state as the General Assembly shall provide. . . .

a. *Gebhart* v. *Belton*, 91 A. 2d 137, 33 Del. 144 (1952). ". . . [S]ubstantial inequality between two schools does not result from the mere fact that one is in the suburbs and another in the city. The question is always whether there are differences between the schools of such a nature as to make them substantially unequal."

C. Taxing Provisions

1. Art. VIII, Sec. 1—"All taxes shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws. . . ."

a. *Conrad* v. *State*, 41 Del. 107, 16 A. 2d 121 (1940), "The constitutionality of an act under the equal protection of law clause of the Federal Constitution, and under this section requiring 'uniformity of taxation' on the same class of subjects within the territorial limits of the authority levying the tax is to be determined by the reasonableness of the classification attempted."

b. *Philadelphia B&W R. Company* v. *Mayor and Council of Wilmington*, 30 Del. Ch. 213, 57 A. 2d 759 (1948), ". . . [B]ut where real property within the same territorial limits is classified for tax purposes, inherent differences in its nature or character, and even its use may be sufficient. . . . It seems however, that classifications based entirely on location of such property are seldom sustained."

2. Art. VIII, Sec. 5—"The General Assembly shall provide for levying and collecting a capitation tax from every citizen of the state of the age of 21 years or upward; but such tax to be collected in any county shall be uniform throughout that county, and such capitation tax shall be used exclusively in the county in which it is collected.

a. *In Re School Code of 1919*, 30 Del. 406, 108 A 39 (1919), "The Act is not invalid because the taxes assessed and collected thereunder would not be uniform. The Constitution provides that the capitation tax shall be uniform throughout the country. . . . We are unable to see that the requirement of the statute affects in any wise the uniformity of the capitation tax. . . . The Constitution (Art. 8, §1) provides that 'all taxes shall be uniform. . . .' and it is contended that property taxes could not, under the Act, be uniform within the territorial limits of the authority levying the same —which means the county. But we think the words 'within the territorial limits levying the same' mean the school district in which the taxes are to be used. . . . The taxes must, of course, be uniform in the school district, and that, in our opinion, would be a compliance with the constitutional requirement."

D. Compulsory Education Statute

1. Sec. 2702—"Every parent, guardian, or other person in the state having control of a child between the ages of 6 and 16 shall send such a child to a free public school, in the district of the residence of the parents. . . ."

E. School Finance Policy Statement

1. Sec. 201—"The system of free public schools throughout this state shall be general and efficient."

FLORIDA

A. General Provisions

1. Art. I, Sec. 2—"All natural persons are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property: . . . No person shall be deprived of any right because of race or religion."

a. *State* v. *Knote,* 135 Fla. 206, 184 So. 752 (1939), vacated on other grounds, 60 S. Ct. 72, 308 U.S. 507, 84 L.Ed. 434, appeal dismissed 60 S. Ct. 72, 308 U.S. 506, 84 L.Ed. 433 (1939). ". . . [T]he power of the State to classify for purposes of taxation is of wide range and flexibility, provided, always that the classification must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike." (Regulation of business.)

2. Art. I, Sec. 9—"No person shall be deprived of life, liberty or property without due process of law. . . ."

B. Education Provision

1. Art. IX, Sec. 1—"Adequate provision shall be made by law for a uniform system of free public schools. . . ."

a. *State* v. *Henderson,* 137 Fla. 666, 188 So. 351 (1939), "Article XII, Section 1 [now Article 9, §1] commends that the Legislature shall provide for a uniform system of public free schools and for the liberal maintenance of such system of free schools. This means that a system of public free schools, as distinguished from the authorized state educational institutions, shall be established upon principles that are of uniform operation throughout the State and that such system shall be liberally maintained. . . . The purpose intended to be accomplished in establishing and liberally maintaining a uniform system of public free schools, is to advance and maintain proper standards of enlightened citizenship."

C. Taxing Provisions

1. Art. VII, Sec. 1(a)—"No tax shall be levied except in pursuance of law. No state ad valorem taxes shall be levied upon real estate or tangible personal property."

2. Art. VII, Sec. 2—"All ad valorem taxation shall be at a uniform rate within each taxing unit. . . ."

a. *Lanier* v. *Overstreet,* 175 So. 2nd 521 (1965), "It is settled that the 'uniformity' requirement of this [constitutional] provision is applicable to the rate of taxation only and not to legislative regulations to secure a 'just valuation' of property."

b. *W. J. Howey Co.* v. *Williams,* 142 Fla. 415, 195 So. 181 (1940), "The uniformity of taxation required by the Constitution relates to uniformity in each of many taxing units severally in the State and does not require collective uniformity of taxation for all taxation units; viz., ad valorem taxation for State purposes must be uniform throughout the State, for county purposes throughout the county, and for district purposes throughout the district, each severally."

D. Compulsory Attendance Statute

1. Sec. 232.01—"All children . . . who have attained the age of 7 years or who are older than 7 years of age but who have not attained the age of 16 years are required to attend school regularly during the entire school term. . . ."

E. School Finance Policy Statement

1. Sec. 228.00Z—"The purpose of the Florida school code is for the establishment, maintenance and support of public education in the State and the provisions shall be liberally construed to the end that its objects may be effected."

2. Sec. 228.01—"It is the purpose of the State plan for public education to insure the establishment of a State system of schools, courses, classes, institutions, and services adequate to meet the educational needs of all citizens of the State."

a. *In re Board of Public Instruction of Alachua County,* 160 Fla. 490, 35 So. 2d 579 (1948).

GEORGIA

A. General Provisions

1. Art. I, Sec. 2–103—"No person shall be deprived of life, liberty, or property, except by due process of law."

a. *Bunn* v. *City of Atlanta*, 67 Ga. 147, 19 S.E. 2d 553 (1942), "The due process and the equal protection clauses of the Federal and State constitutions protect rights alone, and have no reference to mere concessions or mere privileges which may be bestowed or withheld by the State or a municipality at will." (Relating to licensing of common carriers by city.)

b. *Coleman* v. *Board of Education of Emanuel County*, 131 Ga. 643, 63 S.E. 41 (1908), "Again, it is said that the act conflicts with the constitutional provision because certain property is by that provision permitted to be exempted from taxation, and that certain property has by the Legislature been exempted from taxation accordingly and this act declares that a tax shall be levied on 'all the property' in the county without mentioning that which has thus been exempted." (Contention *not* upheld.)

c. *National Mortgage Corp.* v. *Suttles*, 194 Ga. 768 22 S.E. 2d 386 (1942), "It could not be said that the constitution of this State evinces an intention to make the Federal constitution, rather than its own provisions, the standard of State jurisdiction, in the matter of taxation. Nor would the fact that the U. S. Supreme Court may construe the Fourteenth Amendment as not imposing a particular limitation prevent this court from giving a different construction to our Georgia due process clause and holding that under this clause the limitation does exist. As a matter of fact in determining whether certain property is subject to taxation in this State, the constitution of the United States is immaterial except in so far as it may impose a limitation. Since the power of State taxation is not derived from that instrument, but inheres in the State itself as a sovereign, the power is there exercised by the taxing authorities in accordance with the laws of the State with nothing added by the Federal constitution, but subject always to its restrictions."

2. Art. I, Sec. 2–401—"Laws of a general nature shall have a uniform operation throughout the State, and no special law shall be enacted in any case for which provision has been made by an existing general law. . . ."

a. *Southern Railway Co.* v. *Harrison*, 172 Ga. 175, 157 S.E. 462 (1931), "The section quoted purports to create a classification of counties for the purpose of levying a school tax solely upon the basis of population. A difference in population alone is not a sufficient reason upon which to base such classification. There being no basis therefore, such classification is void, and the act does not operate uniformly throughout the State and is violative of Article I, § 4 (52–401) of the Constitution of this State."

b. *Stewart* v. *Anderson*, 140 Ga. 31, 78 S.E. 457 (1913), "The question, therefore, is whether the act under consideration is a general or a special law. Has it uniform operation throughout the State? It does not purport to apply to all counties in the State, but only to such as meet a certain description. The Legislature may make classifications for purposes of legislation and pass general laws with reference to such classes. They may classify counties. The basis of classification must have some reasonable relation to the subject matter of the law, and must furnish a legitimate ground of differentiation. . . . If the classification is sought to be made with reference to counties, and the basis of classification is legal, the law must apply to all counties within the class, or which may come within the class. . . . [T]here must be some reasonable basis of classification, so that all which fall within the class may come within the scope of the provisions of the law."

c. See also, *Stewart* v. *Davidson*, 218 Ga. 760, 130 S.E. 2d 822 (1963), declaring the State's Minimum Foundation Program to be a general law which must have uniform operation throughout the State.

B. Education Provisions

1. Art. VIII, Sec. 2–6401—"The provision of an adequate education for the citizens shall be a primary obligation of the State of Georgia, the expense of which shall be provided for by taxation. . . ."

a. *Callihan* v. *Reid*, 149 Ga. 704, 101 S.E. 914 (1920), "Where a common school only was maintained in a school district, in which were seven

grades, none of them beyond the common school grades, and there being only sufficient funds arising from the taxes levied for this purpose to maintain the common school, the authorities could not be compelled by mandamus to admit a child, though within the school age, who had completed the seven grades, for the purpose of having such pupil classified and taught in a grade higher and beyond the last common grade. . . . Permission under the Constitution as it now stands, can be granted to the counties to tax for the purpose of maintaining high schools; but we do not regard the change in the Constitution as rendering it mandatory upon the counties to exercise the right to tax to maintain high schools."

2. Art. VIII, Sec. 2-7501—"The fiscal authority of the several counties shall levy a tax for the support and maintenance of education. . . ."

a. *Board of Education* v. *Purse*, 101 Ga. 422, 28 S.E. 896 (1897), "A child, in Georgia, has the same right to an education at the hands of his parents that he had at common law but no more. He could not at common law require his parents to education him; he cannot, in Georgia, compel his parent to provide an education for him. . . ."

C. Taxing Provision

1. Art. VII, Sec. 2-5403—"All taxes shall be levied and collected under general laws and for public purposes only. All taxation shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax. Classes of subjects for taxation of property shall consist of tangible property and one or more classes of intangible personal property including money. The general assembly shall have the power to classify property including money for taxation, and to adopt different rates and different methods for different classes of such property."

a. *Brown* v. *Southern Railway Co.*, 125 Ga. 772, 54 S.E. 729 (1906), "A statute which undertakes to impose an ad valorem tax upon the property of certain taxpayers, and exempts from its operation the property of another class of taxpayers subject to be taxed within the territorial limits of the authority levying the tax, is void by reason of conflict with the Constitutional provision." (Relating to the exemption of property from local school district taxation.)

D. Compulsory Attendance Statute

1. Sec. 32-2104—"Every parent, guardian or other person residing within the State of Georgia having control or charge of any child or children between their 7th and 16th birthdays shall enroll and send such child or children to a public or private school. . . ."

E. School Finance Policy Statement

1. Sec. 32-602—"The General Assembly of Georgia, recognizing the importance and extreme necessity: of providing improved educational opportunity for all Georgians—children, youths, and adults; of establishing equality of educational opportunity for Georgia's children and youth regardless of where they may live or what their station in life may be; of establishing and maintaining minimum standards for public schools so that every Georgia child and youth can attend an accredited public school; of improving the quality of education through continued development and improvement of balanced programs designed to provide academic and occupational preparation of Georgia's children and youth for adult life in this age; of developing a public school program that will attract, hold and fully utilize competent professional personnel in the public school systems of this State; . . . .of the need to maintain adequately the improvement of Georgia's public education program and facilities; of the need to assure Georgia's children and youth are receiving an improved minimum level of education; and of the need for providing a method whereby all Georgians shall pay their fair share of the cost of such programs; and recognizing fully its responsibility to provide a means whereby the foregoing needs might more readily be met; does hereby establish a State Minimum Foundation Program for the education of Georgia's children and youth."

HAWAII

A. General Provisions

1. Art. I, Sec. 2—"All persons are free by nature and are equal in their inherent and inalienable rights."

2. Art. I, Sec. 4—"No person shall be deprived of life, liberty or property without due process of law, nor be denied the equal protection of the laws, nor be denied the enjoyment of his civil rights or be discriminated against in the exercise thereof because of race, religion, sex or ancestry."
a. Annotation refers simply to U.S. Constitution, 5th and 14th Amendments.

B. Education Provision

1. Art. IX, Sec. 1—"The State shall provide for the establishment, support and control of a statewide system of public schools free from sectarian control."

C. Taxing Provision

1. Art. VII, Sec. 3—"The taxing power shall be reserved to the state except so much thereof as may be delegated by the legislature to the political subdivisions, and the legislature shall have the power to apportion state revenues among the several political subdivisions. . . ."

D. Compulsory Attendance Statute

1. Tit. 18, Sec. 298-9—"Unless excluded from school or excepted from attendance, all children who will have arrived at the age of at least six years, and who will not have arrived at the age of eighteen years, on or before December 31 of any school year, shall attend either a public or private school for and during such school year, and any parent, guardian, and other person having the responsibility for or care of a child whose attendance at school is obligatory shall send the child to some such school."

E. School Finance Policy Statement

None.

IDAHO

A. General Provisions

1. Art. I, Sec. 1—"All men are by nature free and equal, and have certain inalienable rights, among which are enjoying and defending life and liberty; acquiring, possessing and protecting property; pursuing happiness and securing safety."

2. Art. I, Sec. 2—"All political power is inherent in the people. Government is instituted for their equal protection and benefit. . . .; and no special privileges or immunities shall ever be granted that may not be altered, revoked or repealed by the legislature."

3. Art. I, Sec. 13—". . . [N]o person shall be . . . deprived of life, liberty or property without due process of law."

a. *Idaho County* v. *Fenn Highway District*, 43 Idaho 233, 253 P. 377 (1927), 'State Constitutions are limitations upon the power of the Legislature, and, so far as taxation legislation is concerned, unless confiscatory, there would perhaps be no violation of the due-process provision, in the absence of restrictions or provisions constituting due process to be in themselves violated." (dicta)

b. *State* v. *Finney*, 65 Ida 630, 150 P. 2d 130 (1944), "The due process and equal protection

provisions of these Constitutions are not intended to interfere with the power of the State in the exercise of the police powers to prescribe regulations for the protection and promotion of the welfare of the people. It is only subject to the qualification that the measure adopted for the purpose of regulating the exercise of the rights of liberty and the use and enjoyment of property must be designated to effect some public object which the government may legally accomplish, and it must be reasonable and have some direct, real and substantial relation to the public object sought to be accomplished."

B. Education Provision

1. Art. IX, Sec. 1—"The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature of Idaho, to establish and maintain a general, uniform and thorough system of public, free common schools."

a. *Fenton* v. *Bd. of Commissioners of Ada County,* 20 Idaho 392, 119 Pac. 41 (1911), "Under the provisions of § 1, Article 9 of the State Constitution, it is made the duty of the Legislature to establish and maintain a general, uniform and thorough system of public, free common schools, and the Legislature has a large discretion under the provisions of the Constitution in making laws to accomplish said purpose. . . . Schools cannot be established or maintained without revenue, and there is no prohibition in the Constitution on the Legislature from delegating the authority to raise revenues for that purpose to proper local officers. . .

"If under said provision of the Constitution, the Legislature has by general law made provisions for the government and support of the common schools by providing suitable machinery, and committing the details of its operation to local officers, they then have complied with the provisions of said section 1 of Article 9 of the Constitution. The Legislature might delegate the exclusive authority to the Board of Trustees of each school district to levy the taxes for school purposes within its district; but the Legislature has not done so. However, each district may levy a special tax, and the board of commissioners is authorized to levy not less than 5 mills and not more than 10 mills, to be apportioned among districts as provided by law.

"It was well known that there were school districts in the state containing a small amount of taxable property and that it would be impossible without classification to raise a sufficient amount of money by taxation on such property to maintain the school in the district for the time required by law; and the method adopted by the Legislature in requiring the several boards of county commissioners to levy a tax of not less than 5 mills nor more than 10 mills for public school purposes, and to divide it among the districts, as provided by law, would assist the weaker districts, and thus enable them to give the children in such districts the required amount of schooling per year." (Relating to a county's refusal to tax at a 5-mill rate.)

C. Taxing Provisions

1. Art. VII, Sec. 2—"The legislature shall provide such revenues as may be needful, by levying a tax by valuation so that every person or corporation shall pay a tax, in relation to the value of his, hers, or its property. . . ."

2. Art. VIII, Sec. 5—"All taxes shall be uniform upon the same class of subjects within the territorial limits, of the authority levying the tax, and shall be levied under general laws, which shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal. . . ."

a. *John Hancock Mut. Life Ins. Co.* v. *Haworth,* 68 Ida. 185, 191 P. 2d 359 (1948), "*In United Pac. Ins. Co.* v. *Bakes,* 57 Idaho 537, 547, 67 P. 2d 1924, 1029, this court, quoting *Diefendorf* v. *Galt,* 51 Idaho 619, 10 P. 2d 307, said: 'The state has the power to classify for the purposes of taxation, only limited by the rule that the classification must be reasonable and founded upon differences between the parties. The equality clause does not forbid reasonable classification. Discrimination through classification is said to violate that clause only where it is such as to preclude the assumption that it was made in the exercise of legislative judgment and discretion'. . . ." (Striking down an income tax provision.)

b. *Scandrett* v. *Shoshone County,* 63 Ida. 46, 116 P. 2d 225 (1941), "The amendment carries on its face two patent vices: First, the legislature, in violation of Sec. 5, Art. VIII of the constitution, has attempted to levy a special tax on *'unorganized school districts'* (emphasis in text) without extending such tax to all of the same class of subjects within the territorial limits of the authority levying the tax. Sec. 32–702, amended, 1939 Sess. Laws, chap. 241, § 1, p. 582, provides for the annual meeting in common and joint common school districts,

and for the determination of the amount of taxes to be raised by special levy; and *these of course, may differ* (emphasis added) in different districts. Sec. 61–806, I. C. A., as amended by Laws 1937, c. 205, § 3, provides for the levy by the board of county commissioners of a tax 'for general school purposes.' The tax levy, by the county commissioners, must be uniform on all the taxable property throughout the county; whereas, the tax levied by the school districts is only required to be uniform on all the taxable property within the particular district making the levy. . . . The fact that the several organized school districts of the county may each levy a special school tax affords no reason or authority for the *legislature* (emphasis in text) levying a special tax on the several *unorganized* (emphasis in text) school districts throughout the state; nor does it afford reason or authority for the county commissioners levying a special tax on the property within an unorganized district for the benefit of the whole county when it is admitted that it will not be a benefit or useful to anybody or property within the territory taxed."

c. *Idaho County* v. *Fenn Highway Dist.*, 253 P. 377, 43 Ida. 233, (1926), "While the Legislature may authorize a county to levy, as a county tax, that which when expended may benefit an included district, it cannot give the county power to levy a tax solely within the district, not uniform throughout the county, in the guise of a district tax, in which the district has no voice. . . . [The Constitution], in effect, requires that if a tax is to be levied by a county, it shall be uniform upon the same class of subjects within the county. Thus, if there is any ground for the interest of a county in the spending of the money, it must be a county purpose to authorize the levy and the levy must be uniform throughout the county."

d. *Chastain's Inc.* v. *State Tax Commission*, 72 Ida. 344, 241 P. 2d 167 (1952), "The Constitution requires that for tax purposes the ad valorem tax must be uniform and on the same basis of valuation as other property within the county, and if this requirement of uniformity has not been attained and retained, then the mandate of Article VII, §§ 2 and 5 of the Constitution, has be violated. . . . Uniformity in taxing implies equality in the burden of taxation and this equality of burden cannot exist without uniformity in the mode of assessments as well as the rate of tax. . . ." (Relating to an attempt by the State Tax Commission to assess property at a different percentage to achieve uniformity.)

e. *Bd. of Trustees, Etc.* v. *Board of County Commissioners*, 359 P. 2d 635, 83 Idaho 172 (1961), "One of the essential requisites of lawful taxation is that the purpose for which it is laid must be a lawful purpose. Likewise as concerns the expenditure of public money the test is not as to who receives the money, but the character of the purpose for which it is to be expended. . . . The fact that the need for such an emergency fund may be greater in one area or district within the county, than in another, does not invalidate the levy. . . . It is a county tax levied equally and uniformly upon all the taxable property in the county. The taxpayers are not assessed as members of a school district but as citizens of the county. The fund is apportioned fairly and equitably to the various schools within the county according to their needs. . . . The fact that the proceeds of a tax levy are apportioned in varying amounts and that some districts receive less than the amount of levy therein does not constitute lack of uniformity, where the tax is apportioned reasonably and according to need in an effort to equalize education or standards throughout the county. . . ." (Relating to the request by school district for county to levy tax for emergency school fund.) (Accord, *Robbins* v. *Joint Class A School District No. 331*, 72 Idaho 500, 244 P. 2d 1104 (1952).)

D. Compulsory Attendance Statute

1. Art. IX, Sec. 9—"The legislature may require that every child of sufficient mental and physical ability shall attend the public school throughout the period between the ages of six and eighteen years, for a time equivalent to three years, unless educated by other means."

2. Sec. 33–202—"The parent or guardian of any child resident in this state who has attained the age of seven (7) years at the time of the commencement of school in his district but not the age of sixteen (16) years, shall cause the child to be instructed in subjects commonly and usually taught in the public schools of the state of Idaho. . . ."

E. School Finance Policy Statement

None.

ILLINOIS

A. General Provisions

1. Preamble, "We, the People of the State of Illinois—grateful to Almighty God for the civil, political and religious liberty which he has permitted us to enjoy and seeking his blessing upon our endeavors—in order to provide for the health, safety and welfare of the people; maintain a representative and orderly government; *eliminate poverty and inequality; assume legal, social and economic justice; provide opportunity for the fullest development of the individual;* and secure domestic tranquility; provide for the common defense; and secure the blessings of freedom and liberty to ourselves and our posterity—do ordain and establish this Constitution for the State of Illinois." (Emphasis added.)

2. Art. I, Sec. 1—"All men are by nature free and independent and have certain inherent and inalienable rights among which are life, liberty and the pursuit of happiness. To secure these rights and the protection of property, governments are instituted among men, deriving their just powers from the consent of the governed."

3. Art. I, Sec. 2—"No person shall be deprived of life, liberty or property without due process of law nor be denied equal protection of the laws."

a. *James* v. *Ill. Dept. of Public Aid*, 126 Ill. App. 2d 75, 261 N.E. 2d 420 (Appellate Ct., 1970), "We do not agree that Chapter 1032 of the Department's manual violates the equal protection clause of the 14th Amendment. A classification having some reasonable basis does not offend against the 14th Amendment merely because in practice it results in some inequality. It is enough if it rests upon a rational basis to secure the purpose for which it is intended. Laws are not deemed special or class legislation merely because they affect one class and not another, provided they affect all members of the same class alike. The statute and the regulations discriminate between types of educational programs not between groups of people. The classification is a rational one because it supports relatively short educational or vocational training programs for which most recipients will be qualified."

b. See *McGinnis* v. *Shapiro*, 293 F. Supp. 327 (1968).

c. (Note: Many annotated cases on the standards of equal protection (i.e., reasonableness, arbitrariness).)

4. Art. IV, Sec. 13—"The General Assembly shall pass no special law when a general law is or can be made applicable. . . ."

B. Education Provision

1. Art. X, Sec. 1—"A fundamental goal of the people of the State is the educational development of all persons to the limits of their capabilities.

"The state shall provide for an efficient system of high quality public educational institutions and services. Education in public schools through the secondary level shall be free. There may be such other free education as the General Assembly provides by law.

"The state has the primary responsibilities for financing the system of public education."

a. *McLain* v. *Phelps*, 409 Ill. 393, 100 N.E. 2d 753 (1951), "It must be constantly kept in mind that the constitution has imposed upon the General Assembly a duty to establish a thorough and efficient system of free schools, and this provision has been construed as permitting the legislature unrestricted authority with reference to the formation of school districts and the agencies which it shall adopt to provide the system of free schools required by the constitution. Thus, the statutes authorize several different types of organized school districts, each of which may provide special advantages for the particular territory in which it is organized. We have repeatedly held that the question of the efficiency and fairness of the school system, established by legislative action, is solely one for the legislature to answer."

b. *People* v. *Jackson-Highland Bldg. Corp.*, 400 Ill. 533, 81 N.E. 2d 578 (1948), "The legislature having the duty to provide a system of schools, it necessarily follows that it has the power to impose taxes for purposes incident to the maintenance or improvement thereof. The mandate of the constitution presupposes power in the General Assembly to carry out that mandate. . . . [T]he maintenance or preservation of a thorough and efficient system of free schools is a public and governmental function in Illinois, and is delegated to a municipality only that it may be more effectively exercised." (Accord,

People v. *Chicago & N.W. Ry. Co.*, 286 Ill. 384, 121 N. E. 731 (1918).)

c. *People* v. *Burson*, 307 Ill. 533, 139 N.E. 139 (1923), "To hold that it is contemplated by the constitutional provision requiring all pupils receive a good common school education, that the situation of all students or pupils in a district shall be the same, would be to prevent the operation of any school district. No matter what the conveniences may be, children living in different parts of any school district will find the location of the school in that district one of varying convenience. . . . The language of the constitution must receive a reasonable construction, and the rule a reasonable application."

d. *People v. Deatherage*, 401 Ill. 25, 81 N.E. 2d 581 (1948), "We must first ascertain whether this court has the duty and the power to determine whether a specific school system is thorough and efficient. Where issues before this court involve the constitutionality of statutes permitting the creation of school districts, the court is necessarily limited in decision to a narrow field. This is true because of the inherent power of the legislature and section 1 of Article VIII of the constitution. The section simply operates as a mandate to the legislature to exercise its inherent power to carry out a primary, obligatory concept of our system of government, i.e., the children of the state are entitled to a good common school education in public schools, and at public expense. Prior decisions of this court have held the section to also place upon the legislature two limitations when implementing that concept: the schools established, i.e., the system, must be free and must be open to all without discrimination. . . . This court has consistently held the section to impose the two limitations, and no more. . . . This court has also been consistent in holding that the question of the efficiency and thoroughness of the school system established by legislative permission is one solely for the legislature to answer and that the courts lack power to intrude. . . . In *Fiedler* v. *Eckfeldt*, 335 Ill. 11, 166 N.E. 504, 509, we said, it is not for the court to determine if the system is the best which could be brought forth. School problems are essentially practical ones—what is best cannot be easily answered."

e. *People* v. *Barrington Consolidated High School Dist.*, 396 Ill. 129, 71 N.E. 2d 86 (1947), "In *Keime* v. *Community High Sch. Dist.* 348 Ill. 228, 180 N.E. 858, 860, it was said: 'There is no constitutional restriction or limitation placed upon the legislature in reference to the formation of school districts or the agencies which the legislature shall adopt to provide the system of free schools, and the General Assembly may provide for the establishment of school districts for different purposes and confer upon the respective local authorities or boards of education the power of taxation to the extent of the legislature's will. . . .' "

f. *Segar* v. *Board of Education*, 317 Ill. 418, 148 N.E. 289 (1925), "The authorities seem to be uniform that a board of education has no power to furnish textbooks to the pupils at public expense without specific authority so to do. A system of schools, which permits all persons of school age residing in the district to attend classes and receive instructions in the subjects taught, without a tuition charge, provides free schools, and the fact that parents of pupils *financially able* (emphasis added) to do so are required to provide their children with textbooks, writing materials and other supplies required for the personal use of such pupils does not change the character of the school. . . ."

g. *People* v. *Young*, 309 Ill. 27, 139 N.E. 894 (1923), "The Legislature has unquestioned power and discretion under Article VIII, Section 1 [now Article X, Section 1], requiring the legislature to provide a thorough and efficient system of free schools whereby all children of the state may receive a common school education, to determine what a common school education shall be; but whatever that determination is, there is no discretion in the legislature to provide a system which deprives any child of the state of the opportunity to obtain such education."

C. Taxing Provision

1. Art. IX, Sec. 4—"(a) Except as otherwise provided in this section, taxes upon real property shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law. (b) Subject to such limitations as the General Assembly may hereinafter prescribe by law, counties of a population of more than 200,000 may classify or continue to classify real property for purposes of taxation. Any such classification shall be reasonable and assessments shall be uniform within each class. The level of assessment or rate of taxation of the highest class in a county shall not exceed two and one-half times the level of assessment or rate of tax of the lowest class in that county. . . ."

a. *People's Gaslight & Coke Co.* v. *Stuckart*, 286 Ill. 164, 121 N.E. 629 (1919), ". . . The great central

and dominant idea of the constitution is uniformity of taxation. . . . Therefore, one person cannot be compelled to pay a greater proportion of taxes, according to the value of his property, than another. . . ."

b. *Bistor* v. *McDonough,* 348 Ill. 624, 181 N.E. 417 (1932), "Under our successive constitutions uniformity of taxation has been and is a mandate to the taxing authorities and lies at the foundation of all taxing power. This rule of uniformity requires that one person shall not be compelled to pay a greater proportion of the taxes, according to the value of his land, than another. *Uniformity in taxing implies equality in the burden of taxation; and this equality cannot exist without uniformity in the basis of assessment as well as the rate of taxation.* . . ." (Emphasis added.)

c. *Anderson* v. *City of Park Ridge,* 396 Ill. 235, 72 N.E. 2d 210 (1947), ". . . .There is no doubt there may be differences in rates between municipalities located in different counties, but differences in rates do not constitute a violation of the constitutional provision which demands that there be uniformity as to valuation so that every person or corporation will pay in proportion to the value of his, her, or its property. . . . The fixing of a rate to be used in the extension of taxes is a process separate and distinct from a determination of the value of property upon which the assessment is to be extended, so that the provisions of section 162a being limited in their application to the fixing of rates, it cannot be said that it comes within the constitutional provisions cited. . . ."

D. Compulsory Attendance Statute

1. Sec. 26–1—"Whoever has custody or control of any person between the ages of 7 and 16 years shall cause such child to attend some public school in the district wherein the child resides the entire time it is in session during the regular school year. . . ."

a. *People* v. *Levison,* 404 Ill. 574, 90 N.E. 2d 213 (1950), "Compulsory education laws are enacted to enforce a natural obligation of parents to provide an education for the young. . . . The object is that all children shall be educated, not they shall be educated in any particular manner or place. . . ."

E. School Finance Policy Statement

None

INDIANA

A. General Provisions

1. Art. I, Sec. 1—"We declare, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty and the pursuit of happiness; that all power is inherent in the people; and that all free governments are, and of right ought to be founded on their authority, and instituted for their peace, safety and well-being. For the advancement of these ends, the people have, at all times, an indefeasible right to alter and reform their government."

a. *Dept. of Insurance* v. *Schoonover,* 225 Ind. 187, 72 N.E. 2d 747 (1947), "We have not found a decision of the Supreme Court of the United States where a similar state regulation has been upheld in the light of the 14th Amendment, but had there been such a decision, this court would not be bound by the same when considering the involved statute as to whether it is in conflict with said Article I, Section 1 of our Constitution although this section and the 14th Amendment are similar in meaning and application. Such a decision would only be persuasive."

2. Art. I, Section 23—"The General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities which upon the same terms, shall not equally belong to all citizens."

a. *Tinder* v. *Music Operating, Inc.,* 237 Ind. 33,

142 N.E. 2d 610 (1957), "In determining the validity of a classification, the court will, in every case, look behind the thing legislated upon and decide the issue on the basis of whether or not its purpose is reasonable and treats all members within the class alike. . . ."

b. *School City of Elwood* v. *State*, 203 Ind. 626, 180 N.E. 471 (1932), "The classification, to be constitutional, must be reasonable and natural, not capricious or arbitrary; it must embrace all who naturally belong to the class; there must be some inherent and substantial difference germane to the subject and purpose of the legislation between those included within the class and those excluded."

c. *Miles* v. *Dept. of Treasury*, 209 Ind. 172, 199 N.E. 372 (1935), "It is well settled that Article X, Section 1 which provides for uniform and equal rate of assessment and taxation, . . . applies only to property taxes under a general levy. . . . Appellants contend that, if the tax in question is held to be an excise, the difference in rates as applied to the various classifications make it invalid and unconstitutional as denying the equal protection of the law under the 14th Amendment to the Federal Constitution, and Article I, Section 23 of the Constitution of Indiana. It is clear that, under the Constitution of Indiana, equality of taxation is not required except in a case of taxes affecting property by general levy; and the rule of equality, that there shall be no exemptions and no discrimination, does not apply under the Constitution of this State or of the United States so long as all persons in like circumstances are treated alike. The Legislature has full power to select one class for taxation to the exclusion of another, and to tax different classes at different rates."

B. Education Provisions

I. Art. VIII, Sec. 1—"Knowledge and learning, generally diffused throughout a community, being essential to the preservation of a free government, it shall be the duty of the General Assembly to encourage by all suitable means, moral, intellectual, scientific, and agricultural improvement; and to provide by law, for a general and uniform system of common schools, wherein tuition shall be without charge, and equally open to all."

a. *Adamson* v. *Auditor and Treasurer of Warren County*, 9 Ind. 174 (1857), "The law conferring the authority to tax must be general, not special; but the exercise of the power need not be uniform throughout the state. That may vary with the wants, tastes, and abilities of different localities. . . ." (Regarding taxes to support public education.)

b. *Schooltown of Windfall City* v. *Somerville*, 181 Ind. 463, 104 N.E. 859 (1914), "By section 1 of Article [VIII] of our state constitution the people have issued a mandate to the Legislature 'to provide by law, for a general and uniform system of public schools.' This it has done and created administrative corporations to which it has delegated authority to perform what is declared in the constitution to be a state function. Manifestly the Legislature has supreme authority over these agents of it, save only as it is restrained by the state constitution. . . ."

c. *Shepardson* v. *Gillett*, 133 Ind. 125, 31 N.E. 788 (1892), "We are unable to agree with counsel for the appellant in his contention that the provision contained in Elliott's Supp. 5826, cl. 19, authorizing the board of trustees of incorporated towns to levy and collect annual taxes not exceeding 30 cents on the hundred dollars' valuation on property subject to taxation for the support of town schools within their corporations, is repugnant to article 8, section 1. . . . [W]hatever doubts and uncertainties may have rested upon this question . . . have been set at rest by the case of *Robinson* v. *Schenck*, 102 Ind. 307, 1 N.E. 698, which holds that the enactment of laws granting the power to the various local subdivisions of the state to levy and collect taxes for the support of their public schools, which applies to all local subdivisions of that class, is a general and uniform system within the meaning of the constitution. . . ."

d. *School City of Terre Haute* v. *Harrison School Tp.*, 184 Ind. 742, 112 N.E. 514 (1916), "It has always been the policy of this state to encourage education, upon the theory that knowledge and learning generally diffused throughout a community, is essential to the preservation of a free government. . . . Based upon these provisions of the Constitution [Article VII, Section 1], and fostered by laws passed in pursuance thereof, our system of free common schools has developed until it has become a source of pride to every citizen of the state.

"There can be no doubt that public education is a function of the state. The state in its sovereign capacity has a direct interest in the enlightenment and mental development of its citizens, to the end that free government may be preserved and may attain its highest efficiency. The school fund, from which the tuition revenue is derived, belongs to the state, and it is administered by the state in the

exercise of its sovereign power for its own benefit. The school children are incidentally benefited; but the primary purpose of the state, in maintaining this fund and in expending its income in the education of its children, is to develop and secure to the state a moral, intellectual, and enlightened citizenship. . . ."

e. *School City of Gary* v. *State*, 253 Ind. 697, 256 N.E. 2d 909 (1970), "Appellant first argues that the Act is violative of Article VIII, Section 1 of the Constitution of Indiana which provides for a general and uniform system of common schools. Specifically, it is argued that in cities of over 90,000 population there would exist a distinctly different educational facility. We disagree. The requirements of 'general and uniform' do not mean identical. The statutes in question are designed to operate uniformly in all parts of the state where the same circumstances and conditions exist.

"As a corollary to the first specification appellant argues that the Act is violative of Article 4, Section 22 of the Constitution of Indiana, which prohibits the legislature from passing local or special laws for the support of common schools. An Act is not local or special if it operates uniformly in all areas where the same conditions exist and applies equally to all who come within its provisions. As we noted above, this Act meets these requirements. Cities and towns may be classified upon the basis of population, and laws applicable to a particular class can be regarded as general and not local or special. The classification must be natural and reasonable. We are of the opinion the classification is not of the type which is unreasonable. The wisdom of public policy of such a classification is for the legislature."

2. Art. IV, Sec. 22—"The General Assembly shall not pass local or special laws, in any of the following cases, that is to say: . . . [12] For the assessment and collection of taxes for state, county, township, or road purposes: [13] Providing for supporting common schools, and for the preservation of school funds. . . ."

a. *School City of Gary* v. *State, Supra.*

C. Taxing Provision

1. Art. X, Sec. 1—"The General Assembly shall provide, by law, for a uniform and equal rate of assessment and taxation; and shall prescribe such regulations as shall secure a just valuation for taxation of all property. . . ."

a. *Kerr* v. *Perry School Tp.*, 162 Ind. 310, 70 N.E. 246 (1904), "This provision of our fundamental law clearly applies to assessments and taxation, and does not profess to control the expenditure of money arising out of any assessment or taxation of property. It deals with uniformity and equal rate of assessment and taxation of property within the taxing district or locality in which the particular tax is levied. . . .

"Appellee insists that taxes are not equal and uniform when all persons within the district or locality do not share equally in the benefits derived therefrom. But benefits derived from taxes levied, and the uniformity of assessment and taxation within the particular district or locality, are entirely different questions."

b. *Smith* v. *Stephens*, 173 Ind. 564, 91 N.E. 167 (1910), "What property shall be assessed and how taxed, is a legislative question, so long as there is uniformity and equality of rate, as to those of the same class."

c. *State* v. *Meeker*, 182 Ind. 240, 105 N.E. 906 (1914), "While it is true that the operation of this law may in a varying degree affect the tax rate of the several counties of the state, that fact is not due to any imperfection in the law itself. A perfect and equal system of taxation throughout an entire state will remain an unattainable good as long as counties, townships or other political subdivisions are unequal in wealth or of unequal size. . . .

"It is sufficient if a tax for state purposes is uniform throughout the state; or, if for county or township purposes, then it must be uniform throughout the county or township."

d. See *Miles* v. *Dept. of Treasury, Supra.*

D. Compulsory Attendance Statute

1. Tit. 28, Sec. 505—". . . .[E]very child between the ages of seven . . . and sixteen . . . shall attend public school or other school. . . ."

E. School Finance Policy Statement

None

IOWA

A. General Provisions

1. Art. I, Sec. 1—"All men are, by nature, free and equal, and have certain inalienable rights—among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness."

2. Art. I, Sec. 6—"All laws of a general nature shall have a uniform operation; the General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms shall not equally belong to all citizens."

a. *Collins* v. *The State Board of Social Welfare,* 248 Iowa 369, 81 N.W. 2d 4 (1957), "The general rule is that if there is any reasonable ground for the classification and it operates equally upon all within the same class, there is uniformity in the constitutional sense. In *Cook* v. *Hannah,* 230 Iowa 249, 297 N.W. 262, it is said, 'If the law operates upon every person within the relation or circumstances provided for in the act, the requirement of uniformity is met.' " (This case looks similar to *Dandridge* v. *Williams,* but arrives at a different result.)

b. *Diamond Auto Sales, Inc.* v. *Erbe,* 251 Iowa 1330, 105 N.W. 2d 650 (1960), "In *Steinberg-Baum & Co.* v. *Countryman, supra,* at page 935 of 247 Iowa, at page 22 of 77 N.W. 2d, we said: ". . . .It is sufficient if a statute applies equally to all members of a class, provided the classification is not purely arbitrary but rests upon some reasonable basis. . . ." (Blue laws affecting used car dealers.)

3. Art. I, Sec. 9—"[N]o person shall be deprived of life, liberty or property, without due process of law."

B. Education Provisions

1. Art. IX, 2d, Sec. 1—"The educational and school funds and lands, shall be under the control and management of the General Assembly of this State."

a. *Cedar Rapids Com. School District* v. *City of Cedar Rapids,* 252 Iowa 205, 106 N.W. 2d 655 (1960), "A school district is a quasi corporation created by the legislature and has only such powers as are bestowed upon it by statute or necessarily implied to carry out those grants. Its purpose is to carry out the governmental function of public instruction within its jurisdiction. . . . The effect of the Constitution of the State of Iowa, Article IX, § 15 is to place the responsibility for public instruction upon the legislature. . . . There is no constitutional provision directing the manner in which the legislature shall carry out its responsibility to furnish public education. . . ."

2. Art. IX, 1st, Sec. 15—"At any time after the year 1863, the General Assembly shall have power to abolish or reorganize said Board of Education, and provide for the educational interest of the State in any other manner that to them shall seem best and proper."

3. Art. IX, 2d, Sec. 3—"The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral and agricultural improvement."

4. Art. IX, 2d, Sec. 7—"The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths, between the ages of five and twenty-one years, in such manner as may be provided by the General Assembly."

C. Taxing Provision

None.

D. Compulsory Attendance Statute

1. Tit. XII, Sec. 299.1—"Any person having control of any child over seven and under sixteen years of age . . . shall cause said child to attend some public school for at least twenty-four consecutive school weeks in each school year. . . ."

E. School Finance Policy Statement

None.

KANSAS

A. General Provisions

1. Bill of Rights, Sec. 1—"All men are possessed of equal and inalienable natural rights, among which are life, liberty and the pursuit of happiness."

a. *State* v. *State Highway Commission*, 136 Kan. 652, 17 P. 2d 839 (1933), "The division of a state highway system into county roads and city streets appears to be a common classification. The principle of equality is not violated unless there is an arbitrary or unreasonable classification. The classification has a reasonable basis and does not offend the constitution."

b. See also *Graham* v. *Board of Education of City of Topeka*, 153 Kan. 840, 114 P. 2d 313 (1941). ("Separate, but equal" case.)

2. Bill of Rights, Sec. 18—"All persons, for injuries suffered in person, reputation or property, shall have remedy by due course of law, and justice administered without delay."

B. Education Provision

1. Art. VI, Sec. 2—"The legislature shall encourage the promotion of intellectual, moral, scientific and agricultural improvement, by establishing a uniform system of common schools, and schools of a higher grade, embracing normal, preparatory collegiate and university departments."

a. *Board of Education* v. *Dick*, 70 Kan. 434, 78 P. 812 (1904), "The question involved is, has the legislature of the State of Kansas power to authorize the board of education of cities of the second class to impose a tuition fee upon resident pupils attending the high school. . . . We think it follows, therefore, both from authority and reason, that the phrase 'common schools' was used in the constitution in its technical sense, which means free schools and that the common schools of Kansas are free schools." (See also *Mariadohl Children's Home* v. *Bellegarde School Dist., No. 23*, 163 Kan. 49, 180 P. 2d 612 (1947).)

b. *State* v. *Kemp*, 124 Kan. 716, 261 P. 556 (1927), "The Constitution makes it mandatory upon the legislature to encourage the promotion of intellectual and moral improvement. A specific method of encouragement is prescribed—establishment of a uniform system of common schools. . . . The legislature must do that much, but it may resort to other methods perfected in the course of social progress. The end to be subserved by state promotion of intellectual and moral improvement is better citizenship. . . ."

c. *Chicago, R.I. & P. Ry. Co.* v. *Nichols*, 130 Kan. 509, 287 P. 262 (1930), ". . . . In creating common and high schools the legislature has placed their management and conduct under subdivisions of the state known as districts. Since the Constitution places the responsibility for providing a system of education upon the legislature, it logically follows that a school district created by the legislature has no inherent power of taxation. It must look to the legislature for its right to raise funds by taxation and has only such power to levy, assess and collect taxes as is clearly granted by the legislature. . . ."

d. *Rural High School No. 6* v. *Board of Comm'rs*, 153 Kan. 49, 109 P. 2d 154 (1941), "The question of uniform operation has usually arisen under Article II, section 17, of our Constitution, and it has been generally held that where a classification made is not unreasonable or capricious, if the act applies to the various classes uniformly, it is of uniform operation. Applying such analogy as there may be, and also considering the constitutional provision with respect to education, any system of schools would be a uniform system if it applied to all of a class which was not arbitrarily or capiciously established." (Relating to an education act providing for an extension of the course of study in high schools in certain school districts maintaining a high school in cities of the third class.)

C. Taxing Provision

1. Art. XI, Sec. 1—"The legislature shall provide for a uniform and equal rate of assessment and taxation, except that mineral products, money, mortgages, notes and other evidence of debt may be classified and taxed uniformly as to the class as the legislature shall provide. . . ."

a. *Comm'rs of Ottawa Co.* v. *Nelson*, 19 Kan. 234 (1877), ". . . . As we have before stated, it is not necessary that all assessments and all taxes in Kansas should be equal and uniform in order to be

valid. . . . And we suppose that no person who has been able to give the subject any careful consideration will so contend. First: The aggregate amount and rate of assessment and the aggregate amount and rate of taxation vary in almost every county, city, town, township and school district in this state. The aggregate rate in some places is as high as five percent on the valuation of the property and in other places it is as low as one or two percent. And yet the Constitution says that 'the legislature shall provide for a uniform and equal rate of assessment and taxation'. Now does this mean, 'a uniform and equal rate of assessment and taxation *throughout the state* [emphasis in text], and for every part and portion of the state'? And if not, why not? Can anyone give any sufficient reason why not? Of course, every one knows that the Constitution does not mean (although it may seem to say so), that the 'rate of assessment and taxation' shall be so 'uniform and equal' throughout the state that if the aggregate rate of taxation in any one school district or township in the state should be just two percent on the valuation that the aggregate rate assessment and taxation in every other part and portion of the state should also be just two percent. And yet, who can give an intelligent and logical reason why the Constitution does not mean this? . . . ."

b. *Francis* v. *A.T. & S. F. R. R. Co.,* 19 Kan. 303 (1877).

c. See also *State* v. *French,* 111 Kan. 820, 208 P. 664 (1922).

D. Compulsory Attendance Statute

1. Sec. 72-1111—"That every parent, guardian or other person in the State of Kansas, having control over or charge of any child who has reached the age of seven (7) years and is under the age of sixteen (16) years, shall require such child to attend continuously a public school. . . ."

E. School Finance Policy Statement

None.

KENTUCKY

A. General Provisions

1. Bill of Rights, Sec. 1—"All men are, by nature, free and equal, and have certain inherent and alienable rights. . . ."

2. Bill of Rights, Sec. 2—"Absolute and arbitrary power over the lives, liberty and property of freemen exists nowhere in a republic, not even in the largest majority."

3. Bill of Rights, Sec. 3—"All men, when they form a social compact, are equal; and no grant of exclusive, separate public emoluments or privileges shall be made to any man or set of men, except in consideration of public services; but no property shall be exempt from taxation except as provided in this Constitution; and every grant of a franchise, privilege or exemption, shall remain subject to revocation, alteration or amendment."

a. *Fischer* v. *Grieb,* 272 Ky. 166, 113 S.W. 2d 1139 (1938), "It is true that the foregoing provisions do not forbid classifications based on reasonable and natural distinctions, but the rule is otherwise where the classification is manifestly so arbitrary and unreasonable as to impose a reasonable basis in fact."

B. Education Provision

1. Constitution, "Education," Sec. 183—"The General Assembly shall by appropriate legislation, provide for an efficient system of common schools throughout the state."

a. *Prowse* v. *Bd. of Education,* 134 Ky. 365, 120 S.W. 307 (1909), "Section 183 of the Constitution requires the General Assembly to provide by appropriate legislation an efficient system of common schools throughout the state. What system will be

most efficient is for the judgment of the General Assembly. . . . In a matter like this, resting within the discretion of the General Assembly, the court will not substitute its judgment for the judgment of the Assembly, and it will not interfere with the action of the legislature, unless a palpable effort to evade the mandate of the Constitution should appear."

b. *Elliott* v. *Garner,* 140 Ky. 157, 130 S.W. 997 (1910).

C. Taxing Provision

1. Constitution, "Revenue & Taxation," Sec. 171 —"The General Assembly shall provide by law an annual tax, which with other resources, shall be sufficient to defray the estimated expenses of the Commonwealth for each fiscal year. Taxes shall be levied and collected for public purposes only and shall be uniform upon all property of the same class subject to taxation within the territorial limits of the authority levying the tax; and all taxes shall be levied and collected by general laws. . . ."

a. *Carpenter* v. *Town of Central Covington,* 119 Ky. 785, 81 S.W. 919 (1904), "If several districts of a county become indebted and issue bonds, a tax may be levied on these districts to pay the debt which they owe, although a similar tax is not levied on other parts of the county which do not owe the debt. The reason is that only property in these districts is subject to taxation for the purposes of these debts, and the constitutional requirement is only that taxes shall be uniform upon all property subject to taxation within the territorial limits of the authority levying the tax. . . ."

D. Compulsory Attendance Statute

1. Sec. 159.010—". . . .Each parent, guardian or other person residing in the state and having in custody or charge any child between the ages of seven and sixteen shall send the child to a regular public day school for the full term that the public school of the district in which the child resides is in session. . . ."

E. School Finance Policy Statement

1. Sec. 157.310—"In IRS 157.310 to 157.440 (Foundation Program) and 157.990(2), it is the intention of the General Assembly to assure substantially equal public school educational opportunities, through a foundation program, for those in attendance in the public schools of the Commonwealth, but not to limit nor to prevent any school district from providing educational services and facilities beyond those assured by the foundation program; and to provide, as additional state funds are made available for the public schools, for the use of such funds for the further equalization of educational opportunities. IRS 157.310 to 157.440 and 157.990(2) shall be interpreted as a measure to provide for an efficient system of public schools throughout the Commonwealth, as prescribed by section 183 of the Constitution of Kentucky, and for the manner of distribution of the public school fund among the districts and its use for public school purposes, as prescribed by section 187 of the Constitution."

LOUISIANA

A. General Provisions

1. Art. I, Sec. 1—"All government, of right, originates with the people, is founded on their will alone, and is instituted solely for the good of the whole."

2. Art. I, Sec. 2—"No person shall be deprived of life, liberty or property except by due process of law."

a. *Matthews* v. *Conway,* 179 La. 875, 155 So. 255 (1934), "The case is governed by the simple rule that where a tax affects alike all persons similarly

occupied, and all property in the same classification, there is no denial of the equal protection of the law. The method of classification of business occupations, and of property used in business occupations, for the purpose of graduating license taxes is primarily and peculiarly a matter for the legislature to determine. . . ."

b. *State* v. *City of New Orleans,* 154 La. 271, 97 So. 440 (1923), "Due process of law and the equal protection of the laws are had when the law affect alike all persons similarly situated."

c. *LeMay* v. *General Accident Fire & Life Assurance Group,* La. App. 1969, 228 So. 2d 713, application not considered, 255 La. 283, 230 So. 2d 588, "Granted there may be no statutory discrimination in the application of a statute unless the distinction is based on differences reasonably related to the purpose of the statute. . . . Here the purpose of the act is to tax the privilege of engaging in the insurance business in the usual and ordinary sense of the meaning of the term. In this case, we find no discrimination whatsoever. Each employer-insurer is afforded equal treatment."

d. *Succession of Vincent,* La. App. 1969, 229 So. 2d 449, writ refused 255 La. 480, 231 So. 2d 395, affirmed 91 S. Ct. 1017, rehearing denied 91 S. Ct. 1672, "A state has great latitude in making classifications, so that differences and distinctions in treatment offend the constitutional guarantees only when the variations are arbitrary and without rational basis."

e. *Estay* v. *LaFourche Parish School Board,* La. App. 1969, 230 So. 2d 443, "The requirements of the equal protection clause, Amendment 14, section 1, of the United States Constitution and the due process clause of Article 1, Section 2, Louisiana Constitution of 1921, are fulfilled when laws or regulations involved affect alike all persons similarly situated." (See also *Scott* v. *City of West Monroe, La.* App. 1957, 95 So. 2d 343.)

B. Education Provisions

1. Art. IV, Sec. 4—"The legislature shall not pass any local or special law on the following specified subjects: . . . Regulating the management of public schools, the building or repairing of school houses and the raising of money for such purposes, except as otherwise provided in this Constitution."

a. *Kotch* v. *Board of River Port Pilot Comm'rs for Port of New Orleans,* 209 La. 737, 25 So. 2d 527, aff'd 67 S. Ct. 910, rehearing denied 67 S. Ct. 1196 (1946), "There are a number of decisions of this court holding that a statute is not a special or local law merely because of the fact that the conditions under which it can operate prevail in only certain parts of the state."

b. *Clark* v. *City of Opelousas,* 147 La. 1, 84 So. 433 (1920), "It is now too well settled to admit of argument that a statute that is general in its terms is not to be regarded as a local or special law, as contradistinguished from a general law, merely because the conditions under which the law may operate or have effect do not prevail in every locality in the state."

c. *Jefferson Parish School District* v. *Jefferson Parish Democratic Executive Committee,* 246 La. 51, 163 So. 2d 348 (1964), "We find that under the above definitions, the phrase 'management of public schools' would have to do with the propriety of school curriculums, methods of teaching, grade levelling, time schedules, classroom procedures, some aspects of teaching, some aspects of discipline and conduct, physical training, some aspects of financing, and other matters directly related to the control, guidance, direction, and management of the Jefferson Parish schools themselves."

2. Art. IV, Sec. 9—"The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of government, pensions, the public debt and interest thereon, public schools, public roads, public charities and all state institutions."

3. Art. XII, Sec. 1—"The legislature shall provide for a public educational system of the state to consist of all public schools and all institutions of learning operated by state agencies and enact laws on all matters regarding the terms and qualifications for admission to the public schools. Children attaining the age of six within four months after the beginning of any school term or session may enter such schools at the beginning of the school term or session, and kindergarten may be authorized for children between the ages of four and six years."

4. Art. XII, Sec. 8—"It [State Board of Education] shall not create or maintain any administrative department in which salaries or expenses are payable from State funds. The legislature shall prescribe the terms under which funds offered for educational purposes shall be received and disbursed."

C. Taxing Provision

1. Art. X, Sec. 1—"The power of taxation shall be vested in the legislature; shall never be sur-

rendered, suspended or contracted away; and all taxes shall be uniform upon the same class of subjects throughout the territorial limits of the authority levying the tax, and shall be levied for public purpose only. . . . The valuation and classification fixed for state purposes shall be the valuation and classification for local purposes; but the taxing authorities of the local subdivision may adopt a different percentage of such valuation for purposes of local taxation."

a. *Bel Oil Corporation* v. *Roland*, 242 La. 498, 137 So. 2d 308, appeal dismissed 83 S. Ct. 22, 371 U.S. 2 (1962), "The legislature of a state may exercise a wide discretion in selecting the subjects of taxation. It may select those who are engaged in one class of business and exclude those engaged in others, if all similarly situated are brought within the class and all members of the class are dealt with according to uniform rules. . . .

"Neither the Fourteenth Amendment to the Federal Constitution nor the equality and uniformity requirements of the State Constitution prohibit the making of classifications in legislation relating to taxation."

b. *Drouin* v. *Board of Directors*, 136 La. 393, 67 So. 191 (1915), "While article 225 [now Art. I, Sec. 1] provides that 'taxation shall be equal and uniform throughout the territorial limits of the authority levying the tax,' the several parish boards of directors of the public schools throughout the state are authorized to impose additional taxes for the support of the public schools in the school districts of the parishes. The property taxpayers in any one school district of a parish may authorize additional taxation within their district for additional support of the public schools, and for the purpose of erecting school houses in such district, although taxpayers in other school districts, in the same parish, may not impose upon themselves the same or an equal amount of taxation. The objection of plaintiff, therefore, that the tax in district No. 50 is not equal and uniform with the tax imposed in school district No. 37, or other districts in Avayelles Parish, is not well founded."

c. *Woodard* v. *Bienville Parish School Board*, 169 La. 831, 126 So. 207 (1930), "The complaint that the tax levied or to be levied in the district as enlarged will not be equal and uniform because the people residing in the original district will be required to pay more taxes than those residing in the added territory is equally untenable. . . .

"It may be true that the people who reside in the original school district will be required to pay more taxes for school purposes than their neighbors who live within the added territory. This amounts to an increase of the taxes exacted from those who reside in the old district, but does not make the tax unequal within the meaning of the constitution.

"The tax in the old district is equal and uniform throughout that district, and so likewise is the tax equal and uniform throughout the district as enlarged.

"The authority to create the larger district necessarily included the authority to levy an additional tax throughout the larger district, provided, of course, that the latter tax added to the first does not exceed the limit fixed in the Constitution, which is not the case."

D. Compulsory Attendance Statute

1. Tit. XVII, Sec. 221—"Every parent, tutor, or other person residing within the State of Louisiana, having control or charge of any child between the ages of seven and fifteen, both inclusive (i.e., from the seventh to the sixteenth birthday), shall send such child to a public or private day school provided that any child below the ages of seven who legally enrolls in school shall also be subject to the provisions of this sub-part. Every parent, tutor, or other person responsible for sending a child to a public or private day school under provisions of this sub-part shall also assure the attendance of such child in regularly assigned classes during regular school hours established by the school board."

E. School Finance Policy Statement

1. Art. XII, Sec. 14—"State funds for the support of public common schools of elementary and secondary grades shall be derived from the following sources and shall be apportioned to the parish school boards in the manner herein provided: . . . .

"FIFTH: Such funds as the legislature has or hereafter may designate, allocate, appropriate, or otherwise provide thereafter or destine thereto; . . . .

"(a) Three-fourths (¾) of this State fund shall be apportioned and distributed to the several parish school boards in this State and shall be paid in monthly installments, in the proportion that the number of educable children from six (6) to eighteen (18) years of age, inclusive, in each parish, bears to the total number of such educable children in the state; . . . .

"(b) One-fourth (¼) of this State fund shall be apportioned and distributed to the parish school board on the basis of equalization, so as to provide and insure a minimum educational program in the common public schools of the state. . . ." (Note: Constitutional provision.)

a. *Orleans Parish School Bd.* v. *Louisiana State Board of Education,* 215 La. 703, 41 So. 2d 509 (1949), "The provisions of the present section 14 of Article XII of our Constitution, however, are not free of ambiguity; and, when considered in the light of the history of their development, they can reasonably be construed as requiring the legislature only to maintain in the State Public School Fund, to be apportioned and distributed therefrom under the prescribed formula, an annual sum of at least $10,000,000.00. Any excess in such fund, it logically follows under that construction, may be similarly apportioned, or it may be otherwise distributed in such manner as the legislature deems advisable, because, subject only to constitutional restrictions, that body's power over state funds is plenary."

MAINE

A. General Provisions

1. Art. I, Sec. 1—"All men are born equally free and independent, and have certain natural, inherent and unalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness."

a. *State* v. *Mitchell,* 97 Me. 66, 53 A. 887 (1902), "No one now questions that these constitutional provisions prevent a state making discrimination as to their legal rights and duties between persons on account of their nativity, their ancestry, their race, their creed, their previous condition, their color of skin or eyes or hair, their height, weight, physical or mental strength, their wealth or poverty, or other personal characteristics or attributes, or the amount of business they do. It must be conceded, on the other hand, that these constitutional provisions do not prevent a state diversifying its legislation or other action to meet diversities in situations and conditions within its borders." (Unconstitutional license fee.)

2. Art. I, Sec. 6—"In all criminal prosecutions, the accused . . . shall not . . . be deprived of his life, liberty, property or privileges, but by . . . the law of the land."

a. *Jordan* v. *Gaines,* 136 Me. 291, 8 A. 2d 585 (1939), "The phrase 'due process of law' and 'law of the land' are identical in meaning. They are of equivalent import and interchangeable."

B. Education Provision

1. Art. VIII, Sec. 1—"A general diffusion of the advantages of education being essential to the preservation of the rights and liberties of the people; to promote this important object, the legislatures are authorized and it shall be their duty to require, the several towns to make suitable provision at their own expense, for the support and maintenance of public schools, and it shall further be their duty to encourage and suitably endow, from time to time, as the circumstances of the people may authorize, all academies, colleges and seminaries of learning within the state. . . ."

a. *Sawyer* v. *Gilmore,* 109 Me. 169, 83 A. 673 (1912), ". . . .Objections, however, are raised to the manner of distribution, and the plaintiff contends that in considering the constitutionality of a statute creating revenue by taxation the method of distribution as well as of assessment should be scrutinized. . . . In other words, while four subdivisions of the state are made to contribute to the fund, only three are permitted to share in the financial benefits.

"This objection, however, is without legal foundation. The legislature has the right under the Constitution to impose an equal rate of taxation upon all the property in the state, including the property in unorganized townships, for the purpose of distributing the proceeds thereof among the cities, towns and plantations for common school purposes, and the mere fact that the tax is assessed upon the property in four municipal subdivisions and distributed among three is not in itself fatal. . . .

". . . .In order that taxation may be equal and uniform in the constitutional sense, it is not necessary that the benefits arising therefrom should be enjoyed by all the people in equal degree, nor that each one of the people should participate in each particular benefit. . . ."

C. Taxing Provision

1. Art. IX, Sec. 8—"All taxes upon real and personal estate, assessed by authority of this state shall be apportioned and assessed equally, according to the just value thereof; . . . ."

a. *Shawmut Mfg. Co.* v. *Inhabitants of Benton,* 123 Me. 121, 122 A. 49 (1923), "The principle of equality, as courts and economists have observed, is cardinal in taxation. It requires a fair and equitable distribution so that each taxpayer shall contribute in proportion to his property. 'Uniformity in taxing implies equality in the burden of taxation, and this equality of burden cannot exist without uniformity in the mode of the assessment, as well as in the rate of taxation.' *Cummings* v. *National Bank,* 101 U.S. 153, 25 L. Ed. 903, a case holding that equity will interfere to restrain the operation of an unconstitutional exercise of power. . . ." (Petition for an abatement of assessed taxes.)

b. *Opinion of the Justices,* 146 Me. 239, 80 A. 2d 421, (1951), "On that occasion the two questions asked were whether a proposed enactment, if it becomes a law, would violate the provisions of (1) section 8 of Article IX of the Constitution, or (2) any of the provisions thereof. The Justices restate the more inclusive issue thus raised as follows: 'In levying a state tax, is the legislature prohibited by the Constitution from fixing a higher rate of taxation upon lands outside of incorporated cities, towns and plantations than the rate . . . within such municipalities?' They answered it affirmatively, relying on said section 8, and advised that the proposed legislation was 'contrary to the Constitution'. . . .

"We cannot doubt that Question No. 1 involves a more fundamental and underlying one, which might be stated as follows: 'Has the legislature any option, if it desires that the property in the unorganized territory of the state shall continue to contribute to the cost of government, or to the maintenance of schools, except to continue to tax all the property within the state, not exempt from taxation, at a uniform rate, according to its just value'?

"Statements of Justices of this court, not only in Opinions such as this but in decided cases, require a negative answer to that question. . . ."

d. *Dyar* v. *Farmington Village Corp.,* 70 Me. 515 (1878), "One portion of the real estate of a town cannot be burdened with a tax from which the remainder is exempt. . . . It cannot be material whether the exempt or the non-exempt portion is the one mentioned. The result is the same. One portion is taxed and the other is exempt. Or, to speak with entire exactness, one portion has an additional tax placed upon it from which the remainder is exempt. And it is this result—this inequality of taxation—that renders the proceeding unconstitutional. . . .

". . . .And we wish again to repeat, that no importance should be attached to the fact that the community or territory to be taxed is first created into a territorial corporation for some local purpose. . . . Such an act of incorporation relates only to the means—it does not affect the end. The objection is to the end; to the inequality of taxation for public purposes thereby produced, not to the machinery by which it is accomplished.

"Nor must such special taxation be confounded with a distribution of the public burdens. Such a distribution has always existed. County expenses are distributed among the several counties; town expenses among the several towns; and a portion of the expenses of our public schools among the several school districts. . . . All are burdened alike and by the same public laws. And, although such a distribution creates temporary inequalities of taxation, those differences ultimately adjust themselves, and that degree of equality which the constitution contemplates is obtained. . . .

". . . [N]or do we mean to say that for public purposes the state may not be divided into districts and the public burdens distributed among them. . . . What we mean to say is that one public district cannot be created within another, nor be allowed to overlap another, so that for the same public purpose, or for any other public purpose, one

portion of the real estate is taxed twice, while the remainder is taxed only once. . . ."

D. Compulsory Attendance Statute

1. Tit. 26, Chap. 41–592—"Every child between the 7th and 15th anniversaries of his birth and every child between the 15th and 17th anniversaries who cannot read at sight and write legibly simple sentences in the English language and every child between the 15th and 16th anniversaries who has not completed the grades of the elementary school shall attend some public day school during the time such school is in session. . . ."

E. School Finance Policy Statement

None.

MARYLAND

A. General Provision

1. Bill of Rights, Art. 23—"That no man ought to be taken or imprisoned or deseized of his freehold, liberties or privileges, or outlawed, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land."

a. *Celanese Corp. of America* v. *Davis,* 186 Md. 463, 47 A. 2d 379 (1946), "Of course, a statute to be constitutional, which applies only to those persons who fall within a specific class, must be reasonable and not arbitrary in its manner of classification. The grounds of difference must have a fair and substantial relation to the object of the legislation in order that all persons in similar circumstances will be treated alike."

b. *Howard Sports Daily* v. *Wellar,* 179 Md. 355, 18 A. 2d 210 (1941), "Unquestionably, if a law is applied and administered by public authority 'with an evil eye and an unequal hand' so as to make unjust discrimination between persons in similar circumstances, material to their rights, such denial of equal justice is within the prohibition of the Constitution."

B. Education Provisions

1. Bill of Rights, Art. 43—"That the legislature ought to encourage the diffusion of knowledge and virtue, the extension of a judicious system of general education, the promotion of literature, the arts, sciences, agriculture, commerce and manufactures, and the general melioration of the condition of the people."

a. *State* v. *Maryland Inst. for Promotion of Mechanical Arts,* 87 Md. 643, 41 A. 126 (1898), "The forty-third article of the Declaration of Rights seems to have been intended to impress upon it [the legislature] the necessity of exercising for the public good the vast powers which it possesses."

2. Art. VIII, Sec. 1—"The General Assembly, at its First Session after the adoption of this constitution, shall by law establish throughout the state a thorough and efficient system of free public schools; and shall provide by taxation, or otherwise, for their maintenance."

C. Taxing Provision

1. Bill of Rights, Art. XV—". . . . [T]hat the General Assembly shall, by uniform rules, provide for separate assessment of land and classification and sub-classifications of improvements on land and personal property, as it may deem proper; and all taxes thereafter provided to be levied by the state for the support of the General State Government, and by the counties and by the City of Baltimore for their respective purposes, shall be uniform as to land within the taxing district, and uniform within the class or sub-class of improvements on land and personal property which the respective taxing powers may have directed to be subjected to the tax levy; yet fines, duties or taxes may properly and justly be imposed, or laid with a political view for the good government and benefit of the community."

a. *Oursler* v. *Tawes*, 178 Md. 471, 13 A. 2d 763 (1940), "The late Judge Alfred Niles in his work on Maryland Constitutional Law, pages 32, 33 makes the following comment: 'The last clause of the 15th article of the Declaration of Rights is considered as enlarging the taxing power of the legislature. And taxes laid under this enlargement of power are of a different class from 'property taxes.' Taxes laid with a political view are not 'property taxes' but are such taxes as the legislature may levy not upon property, but upon occupations, privileges, contracts, and things of that nature, and as to these the rule of equality is not applicable.' "

b. *Miller* v. *Wicomico County Comm'rs*, 107 Md. 438, 69 A. 118 (1908), "There can be no question as to the power of the legislature to create separate taxing districts within a county or city, provided the rate, assessment and taxation be made equal and uniform as to all property within the taxing district." (An act provided for a tax on the interest from mortgages to be applied only to certain counties.)

c. *Rogan* v. *County Comm'rs of Calvert County*, 194 Md. 299, 71 A. 2d 47 (1950), "It has long been recognized in this state that the legislature has the power to divide any county into taxing districts and that each county or taxing district can have its own rate of taxing without contravening article 15 of the Maryland Declaration of Rights. This court has held that the provision in the amendment of Article 15 of the Declaration of Rights . . . declaring that all taxes levied by the state for the support of the State Government, and by the counties and by the City of Baltimore for their respective purposes, shall be uniform as to land within the taxing district, refers to levies of taxes and not to assessments."

d. *McGraw* v. *Merryman*, 133 Md. 247, 104 A. 540 (1918), "Most of the argument on that subject [taxation] is met by the decision in Daly v. Morgan. . . . It is there held that the principle of equality in taxation was fully gratified by making local taxation equal and uniform as to all property within the limits of the taxing district. . . ."

D. Compulsory Attendance Statute

1. Education Code, Sec. 92—"Every child between six and sixteen years of age residing in the state shall attend some public school regularly during the entire period of each school year. . . ."

E. School Finance Policy Statement

1. Education Code, Sec. 1—"There shall be throughout the State of Maryland a general system of free public schools, according to the provisions of this article. . . ."

MASSACHUSETTS

A. General Provisions

1. Declaration of Rights, Art. I, Sec. 2—"All men are born free and equal, and have certain natural, essential and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties, that of acquiring, possessing, and protecting property. . . ."

a. *Att'y General* v. *Suffolk County Apportionment Comm'rs*, 224 Mass. 598, 113 N.E. 581 (1916), "The right to vote is a fundamental personal and political right. The equal right of all qualified to elect officers is one of the securities of the Bill of Rights, Articles 1–9."

2. Declaration of Rights, Art. X, Sec. 1—"Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty and property, according to standing laws. He is obliged, consequently to contribute his share to the expense of this protection; to give his personal services, or an equivalent, when necessary. . . ."

a. *Opinion of the Justices to the House of*

Representatives, 357 Mass. 827, 257 N.E. 2d 94 (1970), "The proposed bill seems clearly to fall within the language of the quoted decision [*Shapiro* v. *Thompson*]. In fact, the bill appears open to more serious objections than the statutes held invalid. Instead of a one-year waiting period the proposed bill has what upon analysis is a two-year waiting period. In addition, the bill, if enacted, might lead to the creation of a number of different rates of welfare payments depending upon the number of applicants, the number of states from which the applicants respectively came, and the varying rates of welfare payments in those states. . . .

"We believe that the section intended is Article X of the Declaration of Rights. The phrase, 'equal protection of the laws,' it will be noted, does not appear in those exact words. Nevertheless, that is the provision of our constitution which may be appropriately cited to raise the same constitutional principle."

b. *Bettigole* v. *Assessors of Springfield*, 343 Mass. 223, 178 N.E. 2d 10 (1961), "The bills present for consideration . . . the question whether the whole 1961 property tax assessment scheme violates the constitution of the Commonwealth. . . . See also Article X of the Declaration of Rights, which reads 'Each individual . . . has a right to be protected . . . in the enjoyment of his life, liberty, and property, according to standing laws. He is obliged, consequently, to contribute *his share* (emphasis in text) to the expense of this protection. . . .' It is well settled that the words 'his share' in Article X of the Declaration of Rights 'forbid the imposition upon one taxpayer of a burden relatively greater or relatively less than that imposed upon other taxpayers'."

c. See also *Opinion of the Justices*, 341 Mass. 738, 167 N.E. 2d 745 (1960).

B. Education Provision

1. Chapter V, Sec. II, Sec. 91—"Wisdom, and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunity and advantages of education in the various parts of the country and among different orders of the people, it shall be the duty of legislatures and magistrates, in all future periods of this commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools and grammar schools in the towns; to encourage private societies and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufacturers, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings, sincerity, good humor and all social affections, and generous sentiments among the people."

C. Taxing Provision

1. Art. IV, Sec. 36—"And further, full power and authority are hereby given and granted to the said general court [i.e., legislature] . . . to impose and levy proportional and reasonable assessments, rates and taxes. . . ."

a. *City of Northhampton* v. *County of Hampshire*, 145 Mass. 108, 13 N.E. 388 (1887), "It is obvious that the principal, perhaps the only, object of the constitutional provision that taxes shall be 'proportional and reasonable,' is the protection of the taxpayer against any arbitrary, unjust, or oppressive exercise of the power of taxation. If, for instance, the legislature should arbitrarily designate a certain class of persons on whom are imposed, without reference to any rule of proportion, or without regard to the share of the public charge which either should bear relatively to that borne by other persons or property or without regard to any special benefit which might accrue to the property subjected to the tax, such imposition would be unlawful. . . ."

b. *Carr* v. *Assessors of Springfield*, 339 Mass. 89 157 N.E. 2d 880 (1959), "Article IV has been consistently construed as establishing the principle of uniformity of taxation of all classes of taxable property."

c. *Opinion of the Justices*, 332 Mass. 769, 126 N.E. 2d 795 (1955), "For present purposes the emphasis in this article is upon the words 'proportional and reasonable.' Of this expression this court said in *Chesire* v. *County Commissioners of Berkshire*, 118 Mass. 359 at p. 389, that the provision requires that all taxes levied under its authority be 'proportional and reasonable' and forbids their imposition upon one class of persons or property at a different rate from that which is applied to other

classes, whether that discrimination is effected directly in the assessment or indirectly through arbitrary and unequal methods of valuation."

d. *Opinion of the Justices,* 220 Mass. 613, 108 N.E. 570 (1915), "The answers to all these questions depend upon the interpretation of [section 36,] article IV of the Constitution of Massachusetts, whereby the General Court is empowered 'to impose and levy proportional and reasonable assessments, rates and taxes. . . .' These words contain the entire grant to tax. . . . The power to tax, which includes the power to levy assessments, rates and taxes, relates to persons and property. The power in this respect is not boundless. It is restricted to the extent that it must be 'proportional and reasonable.' These are words of limitation. Capitation and property taxes must be levied in conformity to this limitation. The significant word in the present connection is 'proportional.' A general property tax, in order to be proportional, must be divided so that the amount to be raised shall be shared by the taxpayers according to the taxable real and personal estate of each. . . ."

e. *Att'y General* v. *Board of Public Welfare,* 313 Mass. 675, 48 N.E. 2d 689 (1943), "The legislature has a wide discretion under the constitution to determine the extent to which public burdens shall be borne directly by the Commonwealth or imposed upon the several cities and towns, and, if so imposed, the manner in which these burdens shall be distributed among the cities and towns, so long, at least, as such burdens are imposed without unreasonable discrimination."

D. Compulsory Attendance Statute

1. Tit. XII, Chapter 76, Sec. 1—"Every child between the minimum and maximum ages established for school attendance by the board of education . . . [shall] attend a public school in said town, or some other day school approved by the school committee, during the entire time the public schools are in session. . . ."

a. *Commonwealth* v. *Roberts,* 159 Mass. 372, 34 N.E. 402 (1893), "The great object of these provisions of the statutes has been that all the children shall be educated, not that they shall be educated in any particular way. To this end public schools are established, so that all children may be sent to them, unless other sufficient means of education are provided for them."

E. School Finance Policy Statement

1. Tit. XII, Chapter 70, Sec. 1—"The purpose of the financial assistance provided by this chapter shall be to promote the equalization of educational opportunity in the public schools of the commonwealth and the equalization of the burden of the cost of school support to the respective cities and towns. Assistance provided under this chapter shall be designated as school aid."

MICHIGAN

A. General Provisions

1. Art. II, Sec. 1—"All political power is inherent in the people. Government is instituted for their equal benefit, security and protection."

a. *Gauthier* v. *Campbell, Wyant and Cannon Foundry Co.,* 360 Mich. 510, 104 N.W. 2d 182 (1960), "Michigan has previously held that article 2, § 1, of its Constitution affords the same rights as the equal protection clause of the 14th Amendment to the United States Constitution." (Accord, *Brouwer* v. *Bronkema,* 377 Mich. 616, 141 N.W. 2d 98 (1966); *People* v. *Gonzales,* 356 Mich. 247, 97 N.W. 2d. 16 (1959); *Fox* v. *Michigan Employment Security Commission,* 379 Mich. 579, 153 N.W. 2d. 644 (1967); *People* v. *Harper,* 1 Mich. App. 480, 136 N.W. 2d. 768 (1965).)

b. *McDaniel* v. *Campbell, Wyant and Cannon*

Foundry Co., 367 Mich. 356, 116 N.W. 2d. 835 (1962), "Plaintiff seems to suggest that if the reasons which would justify the classification in a particular case are not the ones of which the legislature can be shown to have been thinking at the time it made the classification, then the latter must fall when the reason the legislature did have in mind is insufficient for that case. There is no support for this doctrine. It is enough if a state of facts can be conceived which would form a reasonable basis for the classification." (See also *Council 23* v. *Civil Service Commission, Wayne Co.*, 32 Mich. App. 243, 188 N.W. 2d. 206 (1971); *Baldwin* v. *North Shores Estates Association*, 384 Mich. 42, 179 N.W. 2d. 398 (1970).)

c. *Gallegos* v. *Glaser Crandell Co.*, 34 Mich. App. 489, 192 N.W. 2d. 52 (1972). This case was an unsuccessful constitutional attack, using a fundamental interest argument, on a statute that excluded migrant farm workers from workmen's compensation benefits.

2. Art. I, Sec. 2—"No person shall be denied the equal protection of the laws, nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin. The legislature shall implement this section by appropriate legislation." (*Note:* Convention comment, ". . . . the convention record notes that 'the principal, but not exclusive, areas of concern are equal opportunities in employment, education, housing and public accommodations.' ")

a. *Tomlinson* v. *Tomlinson*, 338 Mich. 274, 61 N.W. 2d. 102 (1953), ". . . [T]he guaranty of equal protection of the law is not one of equality of operation or application to all citizens of the state or nation, but rather one of equality of operation or applicability within the particular class affected, which classification must, of course, be reasonable." (Relating to an unsuccessful contention that a pretrial discovery procedure is unconstitutional as it is only limited to judicial circuits having a pretrial calendar.)

b. *In re Fox's Estate*, 154 Mich. 5, 117 N.W. 558 (1908), reversed on other grounds 124 N.W. 60, 159 Mich. 420, "But every Constitution in the Union is founded upon the principle 'that all men are equal before the law, and that life, liberty, and property are secured for all alike.' Such principle, however, is no broader in its scope and effect than the provisions of the fourteenth amendment of the United States Constitution, and no law which can be sustained under such provisions of the federal Constitution can be held, in those respects, to violate either the letter or the spirit of our State Constitution." (Relating to the assessment of inheritance tax.)

c. *People's Appliance & Furniture, Inc.* v. *City of Flint*, 358 Mich. 34, 99 N.M. 2d. 522 (1959), ". . . .It has been generally held that legislative bodies may distinguish, select and classify objects of legislation. It suffices if the classification is practical. They may prescribe different regulations for different classes, and discrimination as between classes is not such as to invalidate the legislative enactment. The one requirement is that the ordinance must affect all persons similarly situated or engaged in the same business without discrimination. . . ." (Relating to Sunday closing laws.) (Accord, *People* v. *Chapman*, 301 Mich. 584, 4 N.W. 2d. 18 (1942).)

d. *Palmer Park Theatre Co.* v. *City of Highland Park*, 362 Mich. 326, 106 N.W. 2d. 845 (1961), "The general rule is stated in *Mulloy* v. *Wayne County Board of Supervisors*, 246 Mich. 632, 638, 225, N.W. 615, 615, where this court quoted with approval the following language: 'The classification must be based upon substantial and real differences in the classes, *which are germane to the purpose of the law and reasonably suggest the propriety of substantially different legislation* [emphasis in original throughout], the legislation must apply to each member of the class, and the classification must not be based on existing circumstances only, but must be so framed as to include in the class additional members as they acquire the characteristics of the class. *Bingham* v. *Board of Supervisors*, 127 Wis. 344, 106 N.W. 1071.

"In *Haynes* v. *Lapeer Circuit Judge*, 201 Mich. 138, 141–142, 166 N.W. 938, 940, this court said: "It is elementary that legislation which, in carrying out a public purpose for the common good, is limited by reasonable and justifiable differentiation to a distinct type or class of persons is not for that reason unconstitutional, because class legislation, if germane to the object of the enactment and made uniform in its operation upon all persons of the class to which it naturally applies; but *if it fails to include and affect alike all persons of the same class, and extends immunities or privileges to one portion and denies them to others of like kind,* by unreasonable or arbitrary sub-classification it comes within the constitutional prohibition against class legislation.' " (Relating to a successful challenge to a city ordinance imposing a license fee on use of non-recirculating air-conditioning

equipment having a capacity of five tons or more.)

e. *Burgess* v. *City of Detroit,* 359 Mich. 269, 102 N.W. 2d. 483 (1960)—"The remaining question is whether such exclusion (i.e., widows of firemen and policemen who died prior to a 1940 Amendment to the City Charter) makes the amendment unconstitutional. All widows of policemen and firemen whose husbands were members of the new policemen and firemen retirement system at date of death or retirement are in one class and subject to the new provisions for benefits. All widows prior to the amendment are in another class. This Court has many times held that legislation is not unconstitutional because it is legislation of a particular kind or character, or because it benefits a particular class, so long as the law operates equally upon those within the particular class. . . . This amendment includes all within the respective classes; consequently, it is not arbitrary or unreasonable. The legislative body in its wisdom determines who shall receive benefits. In this instance it chose to exclude plaintiffs. This Court cannot and will not question its reasons unless they appear to be palpably arbitrary or unreasonable."

f. *Union Steam Pump Sales Co.* v. *Beuland,* 216 Mich. 261, 185 N.W. 353 (1921), "We shall discuss the question of uniformity under the state constitution and of equality under the Fourteenth Amendment together. Both involve the question of classification. The objection here made grows out of the fixing of a maximum and a minimum in the amount of tax to be paid. It is pointed out in the briefs and upon the argument the difference in percentage paid by the small corporation and the large one. We might not find difficulty in agreeing that the law was economically unjust, that in policy it is wrong, but the question of policy belongs to another branch of government. . . . That absolute uniformity, absolute equality, in taxation is Utopian has long been recognized. That the legislature has the power to classify has also long been recognized. That it is the abuse of such power, not its exercise, that is within the constitutional inhibition, numerous decisions demonstrate. . . ."

g. See also *Walter Toebe and Co.* v. *Michigan Department of Revenue,* 378 Mich. 617, 148 N.W. 2d. 775 (1967).

3. Art. I, Sec. 17—"No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law. . . ."

a. *Grubaugh* v. *City of St. Johns,* 384 Mich. 165, 180 N.W. 2d. 778 (1970), "In discussing the due process of law question we must consider the nature of its guarantee. The constitutional guarantee that 'no person shall be deprived of property, without due process of law' is, in its most fundamental sense, a limitation upon arbitrary power and a guarantee against arbitrary legislation demanding that the law shall not be unreasonable, arbitrary or capricious and that the means selected shall have a real and substantial relation to the object to be attained."

b. See also *Lucking* v. *People,* 320 Mich. 495, 31 N.W. 2d. 707 (1948).

B. Education Provisions

1. Art. 8, Sec. 1—"Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."

a. *Michigan Female Seminary* v. *Secretary of State,* 115 Mich. 118, 73 N.W. 131 (1897), "It has always been the policy of this state, as indicated by the provisions of the constitution and a long line of legislative enactments to encourage the cause of education. . . ." (Relating to the question of whether a franchise fee law applies to an educational institution.)

b. *School District of City of Lansing* v. *State Board of Education,* 367 Mich. 591, 116 N.W. 2d. 866 (1962), "Unlike the delegation of other powers by the legislature to local governments, education is not inherently a part of the local self-government of a municipality except insofar as the legislature may choose to make it such. Control of our public school system is a State matter delegated and lodged in the State legislature by the Constitution. The policy of the State has been to retain control of its school system, to be administered throughout the State under State laws by local State agencies organized with plenary powers to carry out the delegated functions given it by the legislature." (Relating to transfer of property between school districts under a state law. View not followed in subsequent cases.)

c. *Dennis* v. *Wrigley,* 175 Mich. 621, 141 N.W. 605 (1913), "The Constitution of 1908, art. 11, § 1 [now art. VIII, §1], provides . . . [cites provision]. This language is taken from the ordinance of 1787. The reassertion of this doctrine after the lapse of more than a century and a quarter, coupled with the fact that legislation in this state upon the subject of education has from the beginning been

of the most liberal character, indicates a settled purpose on the part of the state to provide, foster, and protect educational facilities for all." (Relating to the duty of a school board that has discontinued the school in the district to provide transportation for pupils to another school.)

d. *Stuart* v. *School District No. 1 of Kalamazoo,* 30 Mich. 69 (1874), "We supposed it had always been understood in this state that education, not merely in the rudiments, but in an enlarged sense, was regarded as an important practical advantage to be supplied at their option to rich and poor alike, and not as something pertaining merely to culture and accomplishment to be brought as such within the reach of those whose accumulated wealth enabled them to pay for it. . . .

"It would be instructive to make liberal extracts from this report did time and space permit. The superintendent would have teachers thoroughly trained, and he would have the great object of common school 'to furnish good instruction in all the elementary and common branches of knowledge, for all classes of community, *as good indeed, for the poorest boy of the state as the rich man can furnish for his children with all his wealth'*. . . . (Emphasis in original.)

"We content ourselves with the statement that neither in our state policy, in our constitution, or in our laws, do we find the primary school districts restricted in the branches of knowledge which their officers may cause to be taught, or the grade of instruction that may be given, if their voters consent in regular form to bear the expense and raise the taxes for the purpose."

e. *Jones* v. *Grand Ledge Public Schools,* 349 Mich. 1, 84 N.W. 2d. 327 (1957), "We are in accord with the finding of the trial judge that under the present school code the defendant school district is not charged with the duty of accepting nonresident pupils. The language of the statute must be construed as it reads. It is not within the province of this Court to read therein a mandate that the legislature has not seen fit to incorporate. . . . If the school code in its present form results in injustice to the plaintiffs, and to others in like situations, the remedy lies with the legislature."

f. *Board of Education of City of Detroit* v. *Elliott,* 319 Mich. 436, 29 N.W. 2d. 902 (1947), "It is contended that it is not within the power of the legislature to create a school district embracing the entire state. . . . Conceding such measure of authority, however, the conclusion does not follow that the entire state can be declared a school district within the meaning of that term as used in art. 10 § 23 of the Constitution. . . . [T]he school district is commonly regarded as a state agency. Such concept is scarcely consistent with the idea of the state making itself a school district and treating such district as an agency of the state. . . .

"The practical situation presented is that the legislature did not appropriate to school districts of the state entitled to annual grants under . . . the Constitution. . . . It did not, in other words, comply with the mandatory formula hereinbefore discussed. . . . However, . . . the court may not direct or control legislative action. In consequence, whether the deficiency is made up by a further appropriation rests wholly with the legislature."

g. *Pingree* v. *Board of Education of City of Detroit,* 99 Mich. 404, 58 N.W. 333 (1894), "As we understand it, counsel means by this contention . . . that the school system must be uniform throughout the state. . . . But these are not the only acts of the legislature which, in a measure, have given a different interpretation to these provisions of the constitution than that contended for. Uniformity of districts has not been kept up; graded schools have been established. . . . In *Perrizo* v. *Kessler,* 93 Mich. 280, 53 N.W. 391, it was said: 'The constitution of 1850 left to the legislature, as did the preceding constitution, the establishment of a system of primary schools; restricting the legislature only by providing that a school shall be kept, without charge for tuition at least three months in each year, and that all instruction in said schools shall be conducted in the English language. . . . It is apparent that with the restrictions mentioned in *Perrizo* v. *Kessler,* supra, the whole primary school system was confided to the legislature by the constitution. . . ."

2. Art. VIII, Sec. 2—"The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin."

a. *Child Welfare Society* v. *Kennedy School District,* 220 Mich. 290, 189 N.W. 1002 (1922), "The primary school system must be continued. The foundation stone of this system was and is free education. It guarantees to the child of the state the right to secure a primary education free of charge. . . . The legislature has entire control over the schools of the state, subject only to the provisions above referred to [education provisions]. The division of the territory of the state into districts,

the conduct of the school, the qualifications of teachers, the subjects to be taught therein, are all within its control." (Relating to the right of children to admission to the public schools in the school district in which they were living.)

b. *Bond* v. *Public Schools of Ann Arbor School District,* 383 Mich. 693, 178 N.W. 2d. 484 (1970), "The word 'free' is susceptible of various meanings, depending upon the context in which it is used. As the word is used in art. 8, § 2, Constitution of 1963, however, it clearly means without cost or charge and must have been so commonly understood by the people. . . . The test adopted by the Idaho Supreme Court—'necessary elements of any school's activity'—is a sound construction of the meaning of the word 'free,' as used in the Idaho Constitution. . . . Applying either the 'necessary elements of any school's activity' test or the 'integral fundamental part of the elementary and secondary education' test, it is clear that books and school supplies are an essential part of a system of free public elementary and secondary schools."

C. Taxing Provision

1. Art. IX, Sec. 3—"The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law. . . . Every tax other than the general ad valorem property tax shall be uniform upon the class or classes on which it operates."

a. *Huron-Clinton Metropolitan Auth.* v. *Boards of Sup'rs, Etc.,* 304 Mich. 328, 8 N.W. 2d 84 (1943), "A constitutional provision requiring a uniform rule of taxation was considered in the case of *Exchange Bank of Columbus* v. *Hines,* 3 Ohio St. 1. The court said, 3 Ohio St. at page 15: 'What is meant by the words "taxing by a uniform rule?" And to what is the rule applied by the constitution? No language in the constitution, perhaps, is more important than this; and to accomplish the beneficial purposes intended, it is essential that they should be truly interpreted, and correctly applied. "Taxing" is required to be "by a uniform rule," that is, by one and the same unvarying standard. Taxing by a uniform rule requires uniformity, not only in the rate of taxation but also uniformity in the mode of the assessment upon the taxable valuation. Uniformity in taxing implies equality in the burden of taxation; and this equality of burden cannot exist without uniformity in the mode of the assessment as well as in the rate of taxation. But this is not all. The uniformity must be co-extensive with the territory to which it applies. If a state tax, it must be uniform over all the state; if a county, town or city tax, it must be uniform throughout the extent of the territory to which it is applicable.' "

b. *Williams* v. *Mayor of Detroit,* 2 Mich. 560 (1853), "Before noticing the distinction urged by counsel upon the argument, it seems proper to remark that every species of taxation, in every mode, is in theory and principle, based upon an idea of compensation, benefit or advantage to the person or property taxed, either directly or indirectly. If the tax is levied for the support of the government and general police of the state, for the education and moral instruction of the citizens, or the construction of works of internal improvement, he is supposed to receive a just compensation in the security which the government affords to his person and property, the means of enjoying his possessions, and their enhanced capacity to contribute to his comfort and gratification, which constitute their value.

"Taxation, not based upon any idea of benefit to the person taxed, would be grossly unjust, tyrannical, and oppressive, and might well be characterized as 'public robbery'. . . .

"Some of the provisions of the constitution hereinbefore referred to, and several others, were cited by the counsel for the complainant, for the purpose of showing that it enjoins a just principle of equality in regard to all public burdens, and prescribes as a limit to the exercise of the taxing power, that common burdens should be substained by common contributions, regulated by some fixed general rule, and apportioned according to some uniform *ratio* of equality. This may be readily admitted as a just and equitable rule. The soundness of such a proposition is too well approved by good sense and too well supported by the theory of free government and equal rights to be seriously questioned. . . .

"Every general law, however wisely and carefully perfected, will, in its practical operation, work oppression and injustice to some. *Equality,* like *perfection,* when applied to man or his works, is a relative term. Legislators, however wise and honest they may be, can only hope to approximate that high standard of perfection in their laws, which would work equal and exact justice to all. . . ." (Emphases in original.)

c. See also *School District Number 9* v. *Board*

of Supervisors, 341 Mich. 388, 67 N.W. 2d. 165 (1954).

d. See also *Titus v. State Tax Commission,* 374 Mich. 476, 132 N.W. 2d. 647 (1954).

D. Compulsory Attendance Statute

1. Sec. 15.3731—"Except as provided . . . , every parent, guardian or other person in this state, having control and charge of any child between the ages of six and sixteen years, shall send such child, equipped with the proper textbooks necessary to pursue his school work, to the public schools during the entire school year. . . ."

a. *Messmore* v. *Kracht,* 172 Mich. 120, 137 N.W. 549 (1912), "The people of the state have long believed in establishing schools at which the children should be educated. The taxpayer, though having no child, is taxed to support the public schools. To insure the education of all the children, the Truant Act, so called, was passed. These measures are justified upon the theory that in a republic all the citizens should be so educated as to be able when attaining maturity to intelligently act upon the questions awaiting solution by adult citizens. . . ."

E. School Finance Policy Statement

None.

MINNESOTA

A. General Provisions

1. Art. I, Sec. 2—"No member of this state shall be disenfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers. There shall be neither slavery nor involuntary servitude in the state otherwise than the punishment of crime, whereof the party shall have been duly convicted."

a. *Dimke* v. *Finke,* 209 Minn. 29, 295 N.W. 75 (1941), "Legislation which selects particular individuals from a class and imposes upon them special burdens from which others in the same class are exempt is class legislation, violative of the equal protection clauses of the federal constitution and of the uniformity clause of the state constitution. . . . These constitutional limitations do not curtail the power of the legislature to classify and to adopt different rules for different classes. They both require, however, that the classification be not unreasonable, arbitrary, or discriminatory, but that it operate equally and uniformly upon all persons in similar circumstances. . . . If the classification be based upon substantial distinctions which make one class really different from another, it is not violative of the constitutional provisions even though some inequalities may result."

b. *State* v. *Pehrson,* 205 Minn. 573, 287 N.W. 318 (1939), "The general principles to be applied are well established. Class legislation is forbidden by Article I, section 2 and Article IV, section 33 of the state constitution as well as by the Fourteenth Amendment to the federal constitution. . . . The problem arises when a law selects particular individuals from a class and imposes on them special burdens from which others of the same class are exempt. . . . To operate uniformly, a law must bring within its influences all who are in the same condition and treat them alike. Legislative enactments which discriminate against some and favor others are prohibited unless they affect alike all persons similarly situated and the classification is not arbitrary. . . ."

c. *C. Thomas Stores Sales System* v. *Spaeth,* 209 Minn. 504, 297 N.W. 9 (1941), "The standards of equal protection under Constitution Article I, sect. 2, and Article IV, sections 33 and 34, and of uniformity under Article IX, section 1, are the same as the standard of equality required by the

equal protection clause of the Fourteenth Amendment of the Constitution of the United States. . . .

"Equal protection does not require any iron rule of equality of taxation. The distribution of the tax burden in such a manner as seems equitable is recognized as a proper exercise of the power of taxation. The selection of subjects of taxation and exemption is inherent in that power. The process of selection involves classification with resulting diversity in the subjects selected for taxation and exemption as well as in the amount of the tax. Classification must not be arbitrary. By that is meant that distinction must rest upon some difference having a fair and substantial relation so that all persons similarly circumstanced shall be treated alike. . . ."

d. *Village of Blaine* v. *Indpt. School Dist. No. 13,* 272 Minn. 343, 138 N.W. 2d 32 (1965), "While school districts are not technically municipal corporations, they are at least public corporations. But they are not within Minn. Constitution, Article I, nor are they within U.S. Constitution Amendment XIV, section 1. They are quasi-public corporations, governmental agencies with limited powers. They are arms of the state and are given corporate powers solely for the exercise of public functions for educational purposes."

2. Art. I, Sec. 7—"No person shall be held to answer for a criminal offense without due process of law. . . ."

a. *Minnesota Wheat Growers' Co-op, Marketing Ass'n* v. *Huggins,* 162 Minn. 471, 203 N.W. 420 (1925), "Due process of law and equal protection of the laws are secured if the laws operate on all alike, and do not subject the individual to an arbitrary exercise of the powers of government."

b. *McElhone* v. *Geror,* 207 Minn. 580, 292 N.W. 414 (1940), "So far as the requirement of due process is concerned, and in the absence of other constitutional restriction, a state is free to adopt whatever economic policy may reasonably be deemed to promote public welfare, and to enforce that policy by legislation adapted to its purpose."

c. *Anderson* v. *City of St. Paul,* 226 Minn. 186, 32 N.W. 2d 538 (1948), "The due process clause of our state constitution is not more restrictive than the due process clause of the Fourteenth Amendment to the federal constitution."

d. See also *Hassler* v. *Engberg,* 233 Minn. 487, 48 N.W. 2d 343 (1951).

B. Education Provisions

1. Art. VIII, Sec. 1—"The stability of a republican form of government depends mainly upon the intelligence of the people, it shall be the duty of the legislature to establish a general and uniform system of public schools."

a. *State* v. *Erickson,* 190 Minn. 216, 251 N.W. 519 (1934), "Article VIII, sections 1 and 3 of the state constitution, charges the legislature with the duty of creating and maintaining a general and uniform system of public schools. Under this provision the legislature is granted plenary powers over all matters relating to public schools excepting only as the same are restricted by constitutional provisions. Recognizing the existence of a limited local interest in the matter of education, this court so frequently has affirmed the doctrine that the maintenance of the public schools is a matter of state and not of local concern that it is unnecessary further to review the authorities at this date."

b. *Board of Education* v. *Erickson,* 209 Minn. 39, 295 N.W. 302 (1940), "By our constitution the mandate of establishing a general and uniform system of public schools was directed to the legislature. Further, 'the legislature shall make such provisions, by taxation or otherwise, as, with the income arising from the school fund, will secure a thorough and efficient system of public schools in each township in the state.' Minn. Constitution, Article VIII, section 3. The method by which these objectives were to be accomplished was left to legislative determination."

c. See also *Board of Education of City of Minneapolis* v. *Houghton,* 181 Minn. 576, 233 N.W. 834 (1930).

d. *State* v. *School Dist. No. 70, Otter Tail County,* 204 Minn. 279, 283 N.W. 397 (1939), "Plaintiffs contend that the statute should be construed as being mandatory because Article VIII provides that it shall be the duty of the legislature to establish a general and uniform system of public schools (section 1) and that the legislature shall make such provisions as will secure a thorough and efficient system of public schools in each township of the state (section 3). These provisions of the constitution are a mandate to the legislature."

2. Art. VIII, Sec. 3—"The legislature shall make such provision, by taxation or otherwise as, with the income arising from the school fund, will secure a thorough and efficient system of public schools in each township in the state."

C. Taxing Provision

1. Art. IX, Sec. 1—". . . . Taxes shall be uniform upon the same class of subjects. . . ."

a. *C. Thomas Stores Sales System* v. *Spaeth, supra.*

b. *Village of Robbinsdale* v. *County of Hennepin,* 199 Minn. 203, 271 N.W. 491 (1937), "It is plaintiff's contention that as the matter involved here is the distribution of taxes already levied and collected . . . the 'unformity clause' does not apply. The argument is that, as the levy made is upon all property and is spread uniformly throughout the county in the same manner as other county levies, the requirement of uniformity is satisfied. We do not agree.

"There is no sound basis for the contention of plaintiff. The argument made is a technical one, and asks that a distinction be made between distribution of tax proceeds and the tax levy itself with regard to the question of improper classification. It is obvious that a tax may be just as discriminatory by means of distribution of proceeds obtained by a uniform tax levy as it may be by discriminating the actual levy of the tax. Furthermore, to so hold would be to open the way for circumvention of the requirement of uniformity imposed by Article IX, section 1 of the Constitution."

c. *Johnson* v. *Donovan,* 290 Minn. 421, 188 N.W. 2d 864 (1971), "Generally, the uniformity requirement means that all property within a class must be treated equally, not that all classes must be so treated. . . ."

d. *In Re Cold Spring Granite Co.,* 271 Minn. 460, 136 N.W. 2d 782 (1965), "Minn. Constitution Article IX, section 1, provides that taxes shall be 'uniform upon the same class of subjects.' The legislature has a wide discretion in classifying property for the purposes of taxation, but the classification must be based on differences which furnish a reasonable ground for making a distinction between several classes. The difference must not be so wanting in substance that the classification results in permitting one to escape a burden imposed on another under substantially similar circumstances and conditions.

D. Compulsory Attendance Statute

1. Sec. 120.10—"Every child between seven and sixteen years of age shall attend a public school, or a private school, for a period of not less than nine months during any school year."

E. School Finance Policy Statement

1. Sec. 124.66—"State aid shall be for the following purposes:

"a. to assist in providing equal educational opportunities for all the school children of the state;

"b. to assist in establishing certain generally accepted minimum standards for all the public schools of the state;

"c. to assist districts whose tax levies for maintenance are exceptionally high; and

"d. to stimulate educational progress by grants of state aid for superior efficiency and high standards and for desirable educational undertakings not yet generally established."

MISSISSIPPI

A. General Provision

1. Art. III, Sec. 14—"No person shall be deprived of life, liberty, or property except by due process of law."

a. *Albritton* v. *City of Winona,* 181 M. 75, 178 So. 799 (1938), "In the course of [developing the concept of due process of law, the courts] have expanded it beyond its literal meaning of 'due procedure' and have brought within it substantive

as well as procedural rights. . . . When applied to substantive rights it is now interpreted to mean that the government is without the right to deprive a person of life, liberty, or property by an act that has no reasonable relation to any proper governmental purpose, or which is so far beyond the necessity of the case as to be an arbitrary exercise of governmental power." (See also *Craig* v. *North Mississippi Community Hospital*, 206 M. 11, 39 So. 2d. 523 (1949).)

B. Education Provisions

1. Art. VIII, Sec. 201•—"The Legislature may, in its discretion, provide for the maintenance and establishment of free public schools for all children between the ages of six (6) and twenty-one (21) years, by taxation or otherwise, and with such grades as the Legislature may prescribe."

2. Art. VIII, Sec. 205•—"The Legislature may, in its discretion, provide for the maintenance and establishment of a free public school or schools in each county in the state, with such term, or terms, as the Legislature may prescribe."

3. Art. VIII, Sec. 213-B—"(a) Regardless of any provisions of Article VIII, or any other provisions of this constitution to the contrary, the Legislature may authorize the establishment, support, maintenance and operation of public schools."

"(b) Regardless of any provision of Article VIII, or any other provisions of this constitution to the contrary, the legislature shall be and is hereby authorized and empowered, by a majority vote of those present and voting in each House, to abolish the public schools in this state, and enact suitable legislation to effect the same.

"(c) Regardless of any provision of Article VIII, or any other provisions of this constitution to the contrary, the legislature shall be and is hereby authorized and empowered by a majority vote of those present and voting in each House, to authorize the counties and school districts to abolish their public schools, and enact suitable legislation to effect the same.

"(d) In the event the legislature shall abolish, or authorize the abolition of the public schools in this state, then the legislature shall be and is hereby authorized and empowered to enact suitable legislation to dispose of school buildings, land and other school property by lease, sale or otherwise.

"(e) The legislature may appropriate state funds and authorize counties, municipalities and other governmental sub-divisions and districts to appropriate funds . . . to aid educable children of this state to secure an education.

"(f) The legislature may do any and all acts and things necessary for the purposes of this section, and this section is declared to be, and is supplemental to all other provisions of this constitution, and legislation enacted under authority hereof shall prevail, whether in conflict with other sections or not."

C. Taxing Provision

1. Art. IV, Sec. 112—"Taxation shall be uniform and equal throughout the state. Property shall be taxed in proportion to its value. Property shall be assessed for taxes under general laws, and by uniform rules, and in proportion to its value."

a. *Culley* v. *Pearl River Industrial Commission*, 234 M. 788, 108 So. 2d 390 (1959), "Furthermore, the taxes are imposed equally on property within the District. No requirement of uniformity or equal protection under the Mississippi and Federal Constitutions limits the power of the legislature in respect to the allocation, distribution and application of public funds. . . . The equal and uniform requirement relates to the levy of taxes, and not to the distribution or application of the revenue of the state."

b. *Redmond v. City of Jackson*, 143 M. 114, 108 So. 444 (1926), "We think in appeals of this kind that the property should be assessed on the basis of equality taking the city as a whole. The rule is not that the party can pick out a particular piece of property and claim that it is assessed of a relatively lower figure than his own property."

D. Compulsory Attendance Statute

1. Sec. 6509—Repealed by the laws of 1956.

E. School Finance Policy Statement

None.

•Sections 201 and 205 were adopted in 1960 to replace the former section 201 which placed a mandatory duty on the Legislature to encourage education and to establish a uniform public school system.

MISSOURI

A. General Provisions

1. Art. I, Sec. 2—". . . [A]ll persons are created equal and are entitled to equal rights and opportunity under law."

a. *State* v. *Disman* (Sup. 1952), 250 S.W. 2d 137, "The Fourteenth Amendment to the Constitution of the United States . . . and the provisions of the Missouri Constitution providing for equal rights and opportunity under the law, do not mean that physical facilities at educational institutions must be identical."

b. *Airway Drive-In Theatre Co.* v. *City of St. Ann* (Sup. 1962), 354 S.W. 2d 858, "This court has held that a municipality 'has power to divide a taxable class, that is, a class taxable under its charter. . . . into sub-classes and tax these sub-classes differently.' . . . But, of course, the classification must be reasonable and not arbitrary. . . . There must be a substantial distinction between the sub-classes . . . or the effect is that businesses which are in fact in the same class are not taxed uniformly."

2. Art. I, Sec. 10—"That no person shall be deprived of life, liberty or property without due process of law."

B. Education Provision

1. Art. IX, Sec. 1(a)—"A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the general assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this state within ages not in excess of twenty-one years as prescribed by law."

a. *State* v. *Van Landuyt* (Sup. 1962), 359 S.W. 2d 773, "The establishment and maintenance of a public school system is primarily a function of the state to be exercised by the legislature, whose powers are not to be fettered if exercised within the limits of the Constitution."

b. *Kansas City* v. *School Dist. of Kansas City*, 356 Mo. 364, 201 S.W. 2d 930 (1947), "The duty to provide for free public schools is vested by the Constitution in the Legislature. . . . A school district is a 'public corporation' forming an integral part of the state and constituting that instrumentality of the state utilized by the state in discharging its constitutionally invoked governmental function of imparting knowledge to the state's youth."

c. *State* v. *Wilson*, 221 Mo. App. 9, 297 S.W. 419 (1927), "[Article IX, Section 1(a)] of our Constitution made it the duty of the General Assembly to establish and maintain free public schools for the gratuitous instruction of all persons in the state between the ages of six and twenty years. Pursuant to this mandate free public schools have been established throughout the state, and district No. 107 is one of the free public schools established for gratuitous instruction. The right of children, of and within the prescribed school age, to attend the public school established in their district for them is not a privilege dependent upon the discretion of anyone, but is a fundamental right, which cannot be denied, except for the general welfare."

C. Taxing Provisions

1. Art. X, Sec. 3—"Taxes may be levied and collected for public purposes only, and shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax."

a. *State* v. *Bates*, 359 Mo. 1002, 224 S.W. 2d 996 (1950), "With wide discretion the General Assembly may make classifications for taxation purposes, but it is uniformly held that persons or property to be taxed may not be classified 'without reason or necessity.' There is no precise yardstick as to reasonableness of classification and the rule of equality of necessity often tends to practical inequalities. . . . But the classification cannot be 'palpably arbitrary.' And while the General Assembly may enact statutes applicable to and classifying certain persons or property for taxation purposes yet such classification must include all persons or objects naturally falling within the class." (See also *State* v. *Nolte* (Sup. 1942), 165 S.W. 2d 632.)

b. *Drey* v. *State Tax Commission* (Sup. 1961), 345 S.W. 2d 228, "An intentional plan or design of discrimination by which one kind or class of property is systematically assessed of a higher percentage of its value than other property in the

county works a constructive fraud upon each property owner thus discriminated against."

c. *State* v. *Metropolitan St. Louis Sewer District*, 365 Mo. 1, 275 S.W. 2d 225 (1955), "This provision clearly prohibits taxing real estate and tangible personal property for the general purposes and general obligations of the entire District at a different rate on its valuation in various parts of the District. . . . Surely no one would claim that the Missouri General Assembly could avoid this constitutional uniformity provision, in providing a tax for the general purposes of the State, by apportioning the amount to be collected in each county so that the required rate of levy would be different in each county instead of taxing uniformly throughout the State."

2. Art. X, Sec. 4(a)—"All taxable property shall be classified for tax purposes as follows: class 1, real property; class 2, tangible personal property; class 3, intangible personal property."

3. Art. X, Sec. 4(b)—"Property in classes 1 and 2 . . . shall be assessed for tax purposes at its value or such percentage of its value as may be fixed by law for each class. . . ."

4. Art. X, Sec. 10(b)—"Nothing in this constitution shall prevent the enactment of general laws directing the payment of funds collected for State purposes to counties or other political subdivisions as State aid for local purposes."

D. Compulsory Attendance Statute

1. Section 167.031—"Every parent, guardian or other person in this State having charge, control or custody of a child between the ages of seven and sixteen years shall cause the child to attend regularly some day school, public, private, parochial or parish, not less than the entire school term of the school which the child attends or shall provide the child at home with regular daily instructions during the usual school hours which shall, in the judgment of a court of competent jurisdiction, be at least substantially equivalent to the instruction given children of like age in the day schools in the locality in which the child resides."

E. School Finance Policy Statement

None.

MONTANA

A. General Provisions

1. Art. I, Sec. 1—"All political power is vested in and derived from the people. All government of right originates with the people, is founded upon their will only, and is instituted solely for the good of the whole."

2. Art. I, Sec. 3—"All persons are born free and have certain inalienable rights. They include the right to a clean and healthful environment and the rights of pursuing life's basic necessities, enjoying and defending their lives and liberties, acquiring, possessing and protecting property, and seeking their safety, health and happiness in all lawful ways. In enjoying these rights, all persons recognize corresponding responsibilities." (As amended 1972.)

a. *Garden Spot Market, Inc.* v. *Byrne*, 141 Mt. 382, 378 P. 2d 220 (1963), "In applying the constitutional provisions above-cited, this court has laid down the fundamental rule that any act, purportedly passed under the police power of the state, must be reasonable and must not be arbitrary or discriminatory."

b. *Northwest Airlines, Inc.* v. *Joint City-County Airport Bd.*, 154 Mt. 352, 463 P. 2d 470 (1970), "Finally, an examination of the actual operating incidence of Chapter 281 [authorizing cities and/or counties which operate public airports through use of public funds to impose on every air passenger carrier weighing over 12,500 pounds a charge of $1 for each originating passenger emplaning on its aircraft] reveals that it creates an unreasonable

and undue discrimination within the terms of the Equal Protection Clause of the Fourteenth Amendment, and in violation of the protections guaranteed by sections 3 and [17] of Article III of the Montana Constitution."

3. Art. I, Sec. 4—"The dignity of the human being is inviolable. No person shall be denied the equal protection of the laws. Neither the state nor any person, firm, corporation, or institution shall discriminate against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or condition, or political or religious ideas." (As amended 1972.)

4. Art. I, Sec. 17—"No person shall be deprived of life, liberty, or property without due process of law."

a. *Garden Spot Market, Inc.* v. *Byrne, supra.*

b. *Northwest Airlines, Inc.* v. *Joint City-County Airport Bd., supra.*

c. *State* v. *Stow,* 144 Mt. 599, 399 P. 2d 221 (1965), "In Montana, every person has a right to operate a business, subject to the applicable laws of the State and ordinances of the city, and of such property right he may not be deprived without due process of law as guaranteed by section [17], Article III of the Montana Constitution. . . ." (See also *State* v. *City of Butte,* 135 Mt. 350, 340 P. 2d 535 (1959).)

5. Art. V, Sec. 12—"The legislature shall not pass a special or local act when a general act is, or can be made, applicable."

B. Education Provisions

1. Art. X, Sec. 1—"(1) It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state.

"(2) The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.

"(3) The legislature shall provide a basic system of free quality public elementary and secondary schools. The legislature may provide such other educational institutions, public institutions, public libraries, and educational programs as it deems desirable. It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system." (Adopted and ratified in 1972.)

C. Taxing Provisions

1. Art. VIII, Sec. 1—"Taxes shall be levied by general laws for public purposes." (As amended 1972.)

a. *Victor Chemical Works* v. *Silver Bow County,* 130 Mt. 308, 301 P. 2d 730 (1956), "Here chapter 178 sets plaintiffs' industrial plant apart from other property of the same general kind and nature, and obviously discriminates 'in favor of one as against another of the same class' by taxing the one at seven percent, the other at thirty percent of its true value. It is equally obvious that here also the plain mandate of our constitution . . . is thwarted, if we give effect to any such attempted classification."

2. Art. VIII, Sec. 3—"The state shall appraise, assess, and equalize the valuation of all property which is to be taxed in the manner provided by law." (As amended 1972.)

3. Art. VIII, Sec. 4—"All taxing jurisdictions shall use the assessed valuation of property established by the state." (As amended 1972.)

4. Art. VIII, Sec. 12—"The legislature shall by law insure strict accountability of all revenue received and money spent by the state and counties, cities, towns, and all other local governmental entities." (As amended 1972.)

D. Compulsory Attendance Statute

1. Section 75-6303—"Any parent, guardian or other person who is responsible for the care of any child who is seven (7) years of age or older prior to the first day of school in any school fiscal year and has not yet reached his sixteenth birthday, or of a child who has not completed the work of the eight (8th) grade, shall cause the child to be instructed in the English language and in the subjects prescribed. . . ."

E. School Finance Policy Statement

1. Section 75-6901—"A uniform system of free public schools, sufficient for the education of and open to all school age children of the state shall be established and maintained throughout the state of Montana. The state shall aid in the support of its several school districts on the basis of their financial need as measured by the foundation program and in the manner established by this Title."

NEBRASKA

A. General Provisions

1. Art. I, Sec. 1—"All persons are by nature free and independent, and have certain inherent and inalienable rights. . . ."

a. *Richter* v. *City of Lincoln*, 136 Neb. 289, 285 N.W. 593 (1939), "There seems to be no similarity between the taxicab business and the several employments which are untaxed by city authorities. . . . The classification is not arbitrary and has a reasonable relation to the subject of the particular legislation. It necessarily embraces all that are engaged in the business now taxed. The only constitutional requirement applicable to the situations is that all taxes shall be uniform in respect to the class upon which they are imposed."

2. Art. I, Sec. 3—"No person shall be deprived of life, liberty, or property, without due process of law."

a. *Rein* v. *Johnson*, 149 Neb. 67, 30 N.W. 2d 548 (1947), "The primary purpose of that constitutional guaranty is security of the individual from the arbitrary exercise of the powers of government unrestrained by the established principles of private rights and distributive justice. . . . As related to legislation, it is generally held that due process is satisfied if the legislature had the power to act on the subject matter, if that power was not exercised in an arbitrary, capricious, or unreasonably discriminatory manner, and if the act, being definite, had a reasonable relationship to a proper legislative purpose. In other words, if an act of the legislature is authorized and promulgated by the inherent and reserved constitutional powers of the state, and is enforced with due regard to and observance of the rules established by our system of jurisprudence for the security of life, liberty, and property, it is not in conflict with due process of law."

b. *Terry Carpenter, Inc.* v. *Wood*, 177 Neb. 515, 129 N.W. 2d 475 (1964), "Classifications within a legislative act must rest on real differences among members of the class, and this classification must bear reasonable relationship to the purposes of the legislation."

3. Art. I, Sec. 25—"There shall be no discrimination between citizens of the United States in respect to the acquisition, ownership, possession, enjoyment or descent of property."

B. Education Provision

1. Art. VII, Sec. 6—"The legislature shall provide for the free instruction in the common schools of this State of all persons between the ages of five and twenty-one years."

a. *Farrell* v. *School District No. 54*, 164 Neb. 853, 84 N.W. 2d 126 (1957), "This provision of the Constitution leaves all matters pertaining to schools and school districts, their creation, dissolution, government, and control with the legislature. In all such matters the state is supreme."

C. Taxing Provisions

1. Art. VIII, Sec. 1—"The necessary revenue of the state and its governmental subdivisions shall be raised by taxation in such manner as the legislature may direct. Taxes shall be levied by valuation uniformly and proportionately upon all tangible property and franchises. . . . The legislature may prescribe standards and methods for the determination of the value of real or other tangible property at uniform and proportionate values."

a. *H/K Company* v. *Bd. of Equalization*, 175 Neb. 268, 121 N.W. 2d 382 (1963), "The Constitution of Nebraska requires taxes on all tangible property to be levied by valuation, uniformly and proportionately. . . . There is no authority for setting up classes for the assessment of real estate."

2. Art. VII, Sec. 1-A—"The State shall be prohibited from levying a property tax for state purpose."

D. Compulsory Attendance Statute

1. Section 79-201—"Every person residing in a school district within the State of Nebraska who has legal or actual charge or control of any child, not less than seven nor more than sixteen years of age, shall cause such child to attend regularly the public, private, denominational, or parochial day schools each day such schools are open and in session except when excused by school authorities, unless such child has been graduated from high school."

E. School Finance Policy Statement

None.

NEVADA

A. General Provisions

1. Art. I, Sec. 1—"All men are by nature free and equal and have certain inalienable rights. . . ."

2. Art I, Sec. 8—"No person shall . . . be deprived of life, liberty, or property without due process of law. . . ."

a. *Washoe County Water Conservation Dist.* v. *Beemer,* 56 Nev. 104, 45 P. 2d 779 (1935), "Respondent further contends that the act in question violates the due process provisions of the Federal and State Constitutions. . . . He claimed that the purpose of the 1935 act is private, not public; that the taxing of property owners outside the boundaries of the conservation district is for the benefit of those having irrigable lands within said district; and that this is depriving the former of property without due process of law." (Court did not accept contention.)

3. Art. IV, Sec. 21—"In all cases . . . where a general law can be made applicable, all laws shall be general and of uniform operation throughout the State."

a. *Boyne* v. *State,* 80 Nev. 160, 390 P. 2d 225 (1964), "The equality guaranteed by the equal protection clause is equality under the same conditions and among persons similarly situated. The legislature may make reasonable classifications with respect to persons, businesses, property and other activities, but those classifications must not be arbitrary and must be based upon some difference in the classes having a substantial relation to the legitimate object to be accomplished."

B. Education Provisions

1. Art. II, Sec. 1—"The legislature shall encourage by all suitable means the promotion of intellectual, literary, scientific, mining, mechanical, agricultural, and moral improvements. . . ."

2. Art. XI, Sec. 2—"The legislature shall provide for a uniform system of common schools, by which a school shall be established and maintained in each school district at least six months in every year . . . and the legislature may pass such laws as will tend to secure a general attendance of the children of each school district upon said public schools."

3. Art. XI, Sec. 6—"In addition to other means provided for the support and maintenance of said . . . common schools, the legislature shall provide for their support and maintenance by direct legislative appropriation from the general fund. . . ."

C. Taxing Provision

1. Art. X, Sec. 1—"The legislature shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, real, personal and possessory. . . ."

a. *Boyne* v. *State, supra.*

b. *Sawyer* v. *Dooley,* 21 Nev. 390, 32 P. 437 (1893), "He is, however, given the same protection that all other persons that owe less than $300, and we think that this, instead of being an unlawful discrimination against the appellant, is simply the exercise of the right to make a classification of taxpayers, which, within reasonable limits, we believe the legislature has full power to adopt. . . .

"All property, whether assessed by the board or by the county assessors, must be assessed at its actual cash value, and there is no reason why this value may not be as accurately determined by several different men and boards as by one. . . . All that is required is a uniformity of taxes and not a uniformity in the manner of assessing or collecting them."

D. Compulsory Attendance Statute

1. Section 392.040(1)—"Except as otherwise provided by law, each parent, guardian or other person in the State of Nevada having control or charge of any child between the ages of 7 and 17 years shall be required to send such child to a public school during all the time such public school is in session in the school district in which such child resides."

E. School Finance Policy Statement

1. Section 387.121—"The legislature declares that the proper objective of state financial aid to public education is to insure each Nevada child a reasonably equal educational opportunity. Recognizing wide local variations in wealth and costs per pupil, the state should supplement local

financial ability to whatever extent necessary in each school district to provide a minimum program of education. Therefore the quintessence of the state's financial obligation for such a program can be expressed in a formula on a per pupil basis as: State financial aid equals school district basic support guarantee for a minimum program minus local available funds produced by mandatory taxes. This formula is designated the Nevada plan."

NEW HAMPSHIRE

A. General Provisions

1. Part I, Art. I—"All men are born equally free and independent; therefore, all government, of right, originates from the people, is founded in consent, and instituted for the general good."

a. *H. P. Welch Co.* v. *State,* 89 N.H. 428, 199 A. 886 (1938), affirmed, 306 U.S. 79, 59 S. St. 438, "Under Part I of the Constitution of this State and under the Fourteenth Amendment to the Constitution of the United States, persons similarly situated are guaranteed similarity of treatment. In this respect, the Fourteenth Amendment 'adds nothing to the rights and liberties of the citizens of this State' (State v. Pennoyer, 65 N.H. 113, 115, 18 A. 878, 880), 'for our constitution secures to every person within its jurisdiction all the rights guaranteed to citizens of the United States by the amendment.' Not every legislative classification is within the ban of these constitutional limitations, however. 'Class legislation, discriminating against some and favoring others is prohibited; but legislation which in carrying out a public purpose, is limited in its application, if within the sphere of its operation it affects alike all persons similarly situated, is not within the amendment.' Barbier v. Connolly, 113 U.S. 27, 32. Or as stated in the Opinion of the Justices, 85 N.H., 562, 564, 154 A. 217, 221: 'Classification to be valid must reasonably promote some proper object of public welfare in interest and may not be sustained when the selection and grouping is so arbitrary as to serve no useful purpose of a public nature.' Legislative classification to be constitutional must be based upon some substantial foundation, it may not be arbitrary, it must be germane to the purpose of the law. *Woolf* v. *Fuller,* 87 N.H. 64, 72, 73, 174 A. 193."

2. Part I, Art. II—"All men have certain natural, essential and inherent rights—among which are, the enjoying and defending life and liberty; acquiring, possessing, and protecting, property; and, in a word, of seeking and obtaining happiness."

a. *Woolf* v. *Fuller,* 87 N.H. 64, 174 A. 193 (1934), "That the legislation may be of some public benefits is not enough, under the state constitution, to give it validity. In addition, it must not impair or destroy private rights guaranteed by the Constitution. . . . An equal property right is so specifically guaranteed in the Bill of Rights that it necessarily limits all subsequent grants of power to deal adversely therewith. . . . The test usually employed in this State to determine the constitutionality, not of the purpose the legislature had in view when it enacted a statute, but of the means it employed to effectuate a constitutional purpose, is to inquire whether the restrictions it imposes on rights secured to individuals by the Bill of Rights are unreasonable . . . and not whether it imposes any restrictions on such rights. . . . While the courts may not condemn police legislation because they regard it as inexpedient or unwise, yet the expediency is to be taken into account in respect to the importance of the public benefit the legislation seeks to promote, as well as the means it adopts to secure the benefit. Expediency involves utility, and if the legislation is directed to a public interest of minor concern, while imposing serious restrictions in regulation or bar of guaranteed rights to accomplish the interests, it tends to show its unreasonableness. On the other hand, the more insistent the public need of police measures, the

more may private rights be restricted to satisfy the need. . . . It is not that the courts say the legislation is inexpedient and therefore void, but that, finding the extent or character of the expediency they then balance it on the scales of reasonableness with the seriousness of the restriction of private rights sought to be imposed. . . ."

3. Part I, Art. III—"When men enter into a state of society, they surrender up some of their natural rights to that society, in order to ensure the protection of others; and, without such an equivalent, the surrender is void."

B. Education Provision

1. Part II, Art. LXXXIII—"Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments among the people. . . ."

a. *Fogg* v. *Board of Education of Littleton*, 76 N.H. 296, 82 A. 173 (1912), "The primary purposes of the maintenance of the common school system is the promotion of the general intelligence of the people constituting the body politic and thereby to increase the usefulness and efficiency of the citizens, upon which the government of society depends. Free schooling furnished by the State is not so much a right granted to the pupils as a duty imposed upon them for the public good. . . . While most people regard the public schools as the means of great personal advantage to the pupils, the fact is too often overlooked that they are governmental means of protecting the state from the consequences of an ignorant and incompetent citizenship. . . . [citing Art. LXXXIII] In accordance with this injunction, the state has always maintained for its protection and at great expense a common school system which long ago became one of the most important governmental agencies. . . .

". . . . The duty of providing for the education of the children within its limits, through the support and maintenance of public schools, has always been regarded in this state in the light of a governmental duty resting upon the sovereign state. It is not a duty imposed by constitutional provision, but has always been assumed by the State, not only because the education of youth is a matter of great public utility, but also and chiefly because it is one of great public necessity for the protection and welfare of the state itself. In the performance of this duty, the State maintains and supports at great expense, and with an ever watchful solicitude, public schools throughout its territory, and secures to its youth the privilege of attendance therein. This is a privilege or advantage, rather than a right in the strict technical sense of the term. . . ."

C. Taxing Provision

1. Part I, Art. XII—"Every member of the community has a right to be protected by it, in the enjoyment of his life, liberty, and property; he is therefore bound to contribute his share in the expense of such protection, and to yield his personal service when necessary. But no part of a man's property shall be taken from him, or applied to public uses without his own consent, or that of the representative body of the people. Nor are the inhibitants of this state controllable by any other laws than those to which they, or their representative body, have given their consent."

a. *Rollins* v. *City of Dover*, 93 N.H. 448, 44 A. 2d 113 (1945), "Taxes must be not merely proportional, 'but in due proportion, so that each individual's just share, and no more shall fall upon him.' Opinion of the Justices, 4 N.H. 565, 569. An equal division of burden requires that the same rate shall be applied to a proportional valuation of all property taxed in a given district. . . .

"What each is bound to contribute being a debt of constitutional origin and obligation, no part of the share of one can be constitutionally exacted of another. . . ."

b. *Hinsdale* v. *County of Cheshire*, 106 N.H. 330, 211 A. 2d 405 (1965), "We hold that Southwestern is benefiting the county of Cheshire and is also benefiting or is available to benefit Hinsdale. Consequently Cheshire can properly raise the

moneys to support Southwestern throughout the county. . . . There is no contention that this tax is not levied equally and proportionately on all taxpayers in Cheshire which is the constitutional equality required."

c. *Monadnock School District* v. *Fitzwilliam,* 105 N.H. 487, 203 A. 2d 46 (1964), "To promote the general welfare by equalizing the educational opportunities of all the children of the State, the legislature can provide foundation aid to districts and towns otherwise unable to provide adequate education for its inhabitants. See Opinion of the Justices, 88 N.H. 500, 508, 190 A. 801. The fact that the receipt of this aid together with the computation of the operating costs of the district school according to a formula contained in the act authorizing the creation of such a district results in one town in the district having to raise more dollars per pupil attending the cooperative school than another town in the same district does not place unequal tax burden on any inhabitant of a particular taxing district which is the constitutional equality required. The constitution does not guarantee that all taxing districts shall have an equal number of pupils to educate, or that the aggregate costs of education shall be identical."

D. Compulsory Attendance Statute

1. Tit. XV, Chapter 193:1—"Every child between six and sixteen years of age shall attend the public school within the district or a public school outside the district to which he is assigned or an approved private school during all the time the public schools are in session. . . ."

a. *State* v. *Jackson,* 71 N.H. 552, 53 A. 1021 (1902), "That education of the citizen is essential to the stability of the state is a proposition too plain for discussion. As a mere generalization of our own it would commend immediate and universal assent. But it rests upon a firmer foundation . . . [Cites Part II, Art. LXXXIII]. . . . It thus being the constitutional duty of the legislature to diffuse knowledge and learning through the community, it must be within the constitutional power of the legislature to enforce school attendance to that end. . . ."

E. School Finance Policy Statement

1. Tit. XV, Chapter 198:8—"It is hereby declared to be the policy of the State of New Hampshire to share in the costs of public elementary and high school education of the local school districts of the State to the end that: (1) the more needy school districts may be assisted in providing an adequate education program, (2) education throughout New Hampshire may be improved; and (3) assistance and incentives may be provided for the formation of cooperative school districts and authorized regional enrollment areas."

NEW JERSEY

A. General Provisions

1. Art. I, Sec. 1—"All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness."

a. *Bednarik* v. *Bednarik,* 18 N.J. Misc. 633, 16 A. 2d 80 (1940), "Under the English common law and under our American Constitutional law, natural rights are such as appertain originally and essentially to each person as a human being, as a member of organized society and as a citizen of a free government. They are rights recognized as inherent in the individual member of the States personal, absolute and inalienable. . . ."

b. *David* v. *Vesta Co.,* 81 N.J. Super. 593, 196 A.

2d 286 (1963), reversed on other grounds 45 N.J. 301, 212 A. 2d 345 (1965), "Any tear in the *status quo* inevitably does damage to those who have relied upon it. However, the fact that some financial injury may be suffered by property owners affected by the Law Against Discrimination does not, by itself, signify an invasion of due process. Private property rights and the needs for correction of public detriment are competing interests which must be weighed. Abridgement of private rights may thus be justified. . . ."

c. *Bailey* v. *Engelman,* 56 N.J. 54, 264 A. 2d 442 (1970), "Appellant correctly concedes the State is not required to meet the total needs of a recipient of aid. . . . Rather, as one has said, appellant argues that, whatever the level of assistance the State may choose to provide, the State must ration that assistance on the basis of each family's own circumstances, and hence may not make a generalized estimate of the needs of families and dispense aid upon that single basis.

"There can be no doubt that the regulation seeks to achieve equality of treatment. It seeks that end by determining the dollar amount of a basic budget, leaving it to those assisted to bring their individual situations within that budget. . . .

"The practical problems which would be inevitable under appellant's approach would seem prohibitive in terms of time and cost. Nor is there a dependable promise that so personalized an approach would, overall, come closer to the ideal of equal treatment of the needy. In any event, the regulation proceeds upon a concept of equal treatment which cannot be called irrational. . . ." [Note: This court later relied heavily upon *Dandridge* v. *Williams,* 397 U.S. 471, 90 A. Ct. 1153, 25 L. Ed. 2d 491 (1970).]

2. Art. I, Sec. 5—"No person shall be denied the enjoyment of any civil or military right, nor be discriminated against in the exercise of any civil or military right, nor be segregated in the militia or in the public schools, because of religious principles, race, color, ancestry or national origin."

a. *Jenkins* v. *Morris Tp. School Dist.,* 58 N.J. 483, 279 A. 2d 619 (1971), "As the Supreme Court pointed out in *Reynolds* v. *Sims,* 377 U.S. 533, 84 S. Ct. 1362, 12 L. Ed. 2d 506, 535 (1964), political subdivisions of the States whether they be 'counties, cities or whatever' are not 'sovereign entities' and may readily be bridged when necessary to vindicate Federal constitutional rights and policies. . . . It seems clear to us that similarly, governmental subdivisions of the State may readily be bridged when necessary to vindicate State constitutional rights and policies. . . ."

B. Education Provisions

1. Art. VIII, Sec. 4, Para. 1—"The legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in the State between the ages of five and eighteen years."

a. *Robinson* v. *Cahill,* 62 N.J. 473, 303 A. 2d 273 (1973), "In light of the foregoing, it cannot be said the 1875 amendments were intended to insure statewide equality among taxpayers. But we do not doubt that an equal educational opportunity for children was precisely in mind. The mandate that there be maintained and supported 'a thorough and efficient system of free public schools . . .' can have no other import. Whether the State acts directly or imposes the role upon local government, the end product must be what the Constitution commands."

b. *Pingry Corp.* v. *Hillside Tp.,* 46 N.J. 457, 217 A. 2d 868 (1966), "As stated in the recent cases of *State* v. *Vaughn,* 44 N.J. 142, 145, 207 A. 2d 537 (1965), this State holds the education of children to be of the supreme importance. . . . Thus, it is clear that the State's duty to educate children is a matter of constitutional demand. In Title 18, N.J. S. A. 18:14–1 et. seq., the legislature has implemented this demand by providing for the public education of every child within the State. . . ."

c. See also *Justices of Rutgers College* v. *Morgan,* 70 N.J.L. 460, 57 A. 250 (1904), affirmed, 71 N.J.L. 663, 60 A. 204.

2. Art. VIII, Sec. 4, Para. 2—"The fund for the support of free public schools . . . shall be annually appropriated to the support of free public schools, and for the equal benefit of all the people of the State; and it shall not be competent, except as hereinafter provided, for the legislature to borrow, appropriate or use the said fund or any part thereof for any other purpose, under any pretense whatever. . . ."

a. *West Morris Regional Board of Ed.* v. *Sills,* 58 N.J. 464, 279 A. 2d 609 (1971), "It, of course, is elementary that the equal protection clause does not require statewide uniformity in all things. Home rule necessarily runs the other way. . . .

"This basic principle applies to education. Thus, it may be determined that education is so much

a matter of local concern that school districts may be established. . . . Although our State constitution mandates in Article VIII, Sec. 4, Para. 1, that . . . [the state provide for public education] . . . it does not demand uniformity of results throughout the State. . . .[7] Nor does the equal protection clause of the Fourteenth Amendment bar the creation of local school districts or require equality of local appropriations for education. [Citing *McGinnis* v. *Shapiro* and *Burrus* v. *Wilkerson*]. . . . It, of course, would be another matter, if local option were designed for an invidious end, such as racial discrimination. . . . The immediate point is that, at least as of now . . . there is no constitutional fiat that educational expenditures be identical for all students throughout the State. Benefits may indeed depend upon the district of a student's residence. . . ."

3. Art. IV, Sec. 7, Para. 9—"The Legislature shall not pass any private, special or local laws: . . .

"(7) Providing for the management and control of free public schools."

a. *Landis* v. *Ashworth*, 57 N.J.L. 509, 31 A. 1017 (1895), "The prosecutor insists that the laws delegating to each school district the power of determining for itself what amount, beyond the state appropriation, shall be raised by tax therein for the support of public schools in the district, and the power of building schoolhouses and employing teachers, result in affording different degrees of instruction to the children in different districts, while it is the duty of the legislature to see that the same facilities for education are furnished to every child in the state. Hence, it is argued, the laws are special and local. . . . A scheme to accomplish that result would compel either the abandonment of all public schools designed for the higher education of youth, or the establishment of such schools in every section of the state within the reach of daily attendance by all the children there residing. Neither of these consequences was contemplated by the amendment of 1875."

b. *Riccio* v. *City of Hoboken*, 69 N.J.L. 649, 55 A. 1109, 63 L.R.A. 485 (1903), "In Lowthrop v. Trenton . . . this court . . . intimated a doubt whether under this clause any classification of schools or school districts was permissible. Upon full consideration we are now unanimously of the opinion that such classification, within due limits of generality, is permissible. . . . We are likewise unanimous in the view that schools and school districts having characteristics so nearly alike as to require similar treatment in legislation may be grouped together in classes, and that such classification may be made the basis of divergent legislative provisions, appropriate to the different classes respectively. In the opinion of all, a legislative classification of school districts, proceeding on lines germane to the objects and purposes of the law, would serve to make general an enactment providing for the management and support of the free public schools."

c. See also *Bd. of Education of Jersey City* v. *Lewis*, 66, N.J.L. 582, 50 A. 346 (1901): *Lowthrop* v. *Inhabitants of City of Trenton*, 62 N.J.L. 795, 44 A. 755 (1899).

C. Taxing Provision

1. Art. VIII, Sec. 1, Para. 1—"(a) Property shall be assessed for taxation under general laws and by uniform rules. All real property assessed and taxed locally or by the State for allotment and payment to taxing districts shall be assessed according to the same standard of value, except as otherwise permitted herein, and such real property shall be taxed at the general tax rate of the taxing district in which the property is situated, for the use of such taxing districts. . . ."

a. *Jersey City* v. *Martin*, 126 N.J.L. 353, 19 A. 2d 40 (1941), "Moreover, the issue here concerns the apportionment among the several municipalities of excise charges levied and collected by the State and the principles governing the levying of taxes have no relation to their distribution by the sovereign. . . . The constitutional provision that property shall be assessed for taxes according to its true value, and by uniform rules, relates only to the assessment of taxes, and in that respect it concerns only such equalization of the burden of taxation as will result from the designation of the property which shall be the subject of taxation, and the apportionment of the taxes thereon under general laws, by uniform rules and upon true valuations. The reasons which induced the adoption of this constitutional provision are deep-seated in principles of public policy. Its object was to secure to the people of the State the equalization of taxation so far as was practicable, by requiring the imposition of taxes on property by general laws, on the principle of uniformity in the subjects of taxation and in valuations. Trustees for Sup-

[7] "We of course do not anticipate the question whether the State statutory scheme may, because of local failures, become unequal to the constitutional premise and command."

port of Public Schools v. City of Trenton, 30 N.J. Eq. 667, 677 . . . The phrase 'uniform rules,' in constitutional intendment . . . [pertains] only to the basic rules for taxation, those that settle how the public burden is to be distributed, including the designation of the property that is to contribute, and the rate or ratio by which the taxes are to be laid and apportioned. . . ."

b. *Ridgefield Park* v. *Bergen County Bd. of Taxation*, 61 N.J. Super. 170, 160 A. 2d 316, appeal dismissed 81 S. Ct. 834, 365 U.S. 648, 5 L. Ed. 2d 857; "No matter how the proceeds of a tax are appropriated, every tax is a State tax which can only be imposed by the authority of the legislature, subject to the constitutional requirement of uniformity. . . .

". . . . And Mr. Justice Depue, in his dissenting opinion in the same case, 48 N.J.L. at pp. 338 and and 341, 4 A. at p. 593, said, '. . . . I have already said that uniformity in the rate of taxation is determined by the territory or political division for the use of which the tax is laid; that the constitution requires the same percentage of actual value upon all taxable property in the township if for township purposes, in the county if for county purposes, and in the State if for State purposes'."

c. *Thomas* v. *Kingsley*, 85 N.J. Super. 357, 204 A. 2d 724 (1964), affirmed 43 N.J. 524, 206 A. 2d 161, ". . . . Absolute equality is impractical. Equalization may not achieve perfection but practical equality is all that can be expected in the area of taxation, and so long as the legislature does not authorize a scheme calculated to induce inequality there is no constitutional infirmity. . . .

". . . . The uniform rules requirement of our State constitution is met by a classification which provides for a uniform tax rate applicable equally to all members of the class. . . . [citing 1 Cooley on Taxation (4th ed.), section 311, p. 645 and section 313, pp. 649–50]. . . .

". . . . '[T]axes in different taxing districts in the State need not be uniform, where they are equal and uniform throughout the district for which the tax is levied. For instance, a county tax in one county may be based on a higher valuation or a higher tax rate than in another county. So a tax to be collected for county purposes, but imposed only on certain counties, does not violate the rule as to equality where the tax is uniform at a higher rate in one town than in another town, where the towns are separate taxing districts. . . ' ."

D. Compulsory Attendance Statute

1. Section 18A:38–25—"Every parent, guardian or other person having custody and control of a child between the ages of six and sixteen years shall cause such child regularly to attend the public schools of the district or a day school in which there is given instruction equivalent to that provided in the public schools for children of similar grades and attainments or to receive equivalent instruction elsewhere than at school."

a. *State* v. *Masa*, 95 N.J. Super. 382, 231 A. 2d 252 (1967), "The purpose of the law is to insure the education of all children. In *State* v. *Peterman*, *supra*. [32 Ind. App. 665, 70 N.E. 550 (Ind. App. Ct. 1904)], the court stated: 'The law was made for the parent, who does not educate his child, and not for the parent . . . [who] places within the reach of the child the opportunity and means of acquiring an education equal to that obtainable in the public schools of the State.'

"*People* v. *Levisen*, also commented on the spirit of the relevant statute stating: 'The law is not made to punish those who provide their children with instruction equal or superior to that obtainable in public schools. It is made for the parent who fails or refuses to properly educate his child.' "

E. School Finance Policy Statement

None

NEW MEXICO

A. General Provisions

1. Art. II, Sec. 4—"All persons are born equally free, and have certain natural and inalienable rights."

2. Art. II, Sec. 18—"No person shall be deprived of life, liberty or property without due process of law; nor shall any person be denied the equal protection of the laws."

a. *Rocky Mountain Wholesale Co.* v. *Ponca Wholesale Mercantile Co.*, 68 N.M. 228, 360 P. 2d 643 (1961), "We think it has been firmly established that a state is free to adopt an economic policy that may reasonably be deemed to promote the public welfare and may enforce that policy by appropriate legislation without violation of the due process clause so long as such legislation has a reasonable relation to a proper legislative purpose and is neither arbitrary nor discriminatory."

b. *Gruschus* v. *Bureau of Revenue*, 74 N.M. 775, 399 P. 2d 105 (1965), "Equal protection does not prohibit classification for legislative purpose, provided that there is a rational and natural basis therefor, that it is based on a substantial difference between those to whom it does and those whom it does not apply, and that it is so framed as to embrace equally all who may be in like circumstances and situations."

c. *State* v. *Henry*, 37 N.M. 536, 25 P. 2d 204 (1930), "This clause is in our constitution as the people's voluntary and studied limitation upon its legislature. We could have no purpose except to check the legislature, as representing the majority for the time being, from encroaching upon this reserved right of the individual. . . . No one could have voted for our Constitution in the belief that the guaranty of life, liberty, and property did not limit legislative power, or that due process meant merely notice and opportunity to be heard, or that the clause was merely directory to the legislature and not a mandate to the judiciary."

d. *State* v. *Sunset Ditch Co.*, 48 N.M. 17, 145 P. 2d 219 (1944), "Legislative classification based wholly upon the time element when the time selected has no reasonable relation to the object of legislation, has been held unreasonable and arbitrary, and repugnant to the provisions of the Fourteenth Amendment to the Federal Constitution [and, by implication, the State constitution]."

B. Education Provisions

1. Art. XII, Sec. 1—"A uniform system of free public schools sufficient for the education of, and open to, all the children of school age in the state shall be established and maintained."

2. Art. IV, Sec. 24—"The legislature shall not pass local or special laws in any of the following cases: . . . the management of public schools. . . ."

a. *McKinley County Bd. of Education* v. *State Tax Commission*, 28 N.M. 221, 210 P. 565 (1922), "Is the act of 1919 unconstitutional as a local and special law? We think not. The legislature has seen fit for many years to differentiate between city and rural schools. We know of no reason why it cannot legally make a differentiation between classes of rural schools. . . . The legislature is not entitled to exercise an arbitrary power of classification. The power must be exercised within the limits of reason and of necessity more or less pronounced."

C. Taxing Provision

1. Art. VII, Sec. 1—"Taxes levied upon tangible property shall be in proportion to the value thereof, and taxes shall be equal and uniform upon subjects of taxation of the same class. Different methods may be provided by law to determine value of different kinds of property, but the percentage of value against which tax rates are assessed shall not exceed thirty-three and one-third percent." (Second sentence added by amendment Nov. 2, 1971.)

a. *Love* v. *Dunnaway*, 28 N.M. 557, 215 P. 822 (1923), "In other words, the argument is that the rate of taxation for county salaries is higher in Lea county than in other counties of the state having the same total valuation in which there has been no reduction since classification. . . . It will be noted, however, that the tax is equal and uniform throughout the county, which is all that is guaranteed by the provision of the constitution relied upon, so long as the tax levied is for a county purpose. . . . This provision does not require that the levy for payment of county salaries shall be the same in every county in the state, but only that it shall be equal and uniform throughout the county."

b. *State* v. *New Mexico State Tax Commission*,

79 N.M. 357, 443 P. 2d 850 (1968), "We do not say 'how' respondents should make taxes equal and uniform, but we do say they must make the necessary effort to achieve such uniformity. It is, of course, too much to expect that there will be absolute uniformity at any time. . . . Nevertheless, there must be a uniform percentage ratio, or some other means of equalization, so as to make uniform the state's share of ad valorem taxes." (Dealing with State Tax Commissioners' duty to promulgate an order providing for uniform assessment percentage ratio to be used in all counties for State purposes as to *ad valorem* taxes.)

c. *Gerner* v. *State Tax Commission*, 71 N.M. 385, 378 P. 2d 619 (1963), "Classification or assessment of property for tax purposes, premised upon hypothetical or speculative values believed, ultimately or at some later time, to be or become the true market value of such land, cannot legitimately be the basis of determining its value. . . . The effect of the classification and valuation of appellant's property at ten times the valuation of other property of the same character and quality and similarly situated is so excessive and discriminatory as to entitle the taxpayer to relief."

D. Compulsory Attendance Statutes

1. Art. XII, Sec. 5—"Every child of school age and sufficient physical and mental ability shall be required to attend a public or other school during such period and for such time as may be prescribed by law."

2. Section 77–10–2—"A. Any person attaining six (6) years of age prior to January 1 of a school year and until attaining seventeen [17] years of age shall attend a public school, a private school maintaining courses of instruction approved by the state board, or a school offered by a state institution. . . ."

E. School Finance Policy Statement

1. (The following was repealed by Ch. 180, Sec. 34 of the laws of 1969, although the remainder of the Public School Finance Act remains substantially intact): Section 77–6–3—"The purpose of the Public School Finance Act [77–6–1 to 77–6–46] is to create an orderly framework for the financing of public school education in this state so that the citizens of this state will be assured that their children will receive a public school education of the highest possible quality consistent with sound fiscal policies."

NEW YORK

A. General Provisions

1. Art. I, Sec. 1—"No member of this state shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers. . . ."

2. Art. I, Sec. 6—". . . . No person shall be deprived of life, liberty or property without due process of law."

a. *Wormsen* v. *Moss*, 177 Misc. 19, 29 N.Y.S. 2d 798 (S. Ct., N.Y. City, 1941), "In so far as one is deprived of the right to labor, his liberty is restricted, his capacity to earn wages and acquire property is lessened, and he is denied the protection which the law affords those who are permitted to work. . . ."

b. *Buchanan* v. *Town of Salina*, 269 App. Div. 1008, 270 App. Div. 207, 58 N.Y.S. 2d 797 (1945), reargument denied 270, App. Div. 800, 60 N.Y.S. 2d 270, ". . . . Concededly on its face, this statute is discriminatory. Nevertheless, it must be borne in mind that next to the police power of the state the least limitable of all the powers of government is

that of taxation. That power is lodged in the state legislature, which is practically unfettered by any constitutional limitation. Therein our constitution differs from those of other states, which contain a constitutional provision requiring equality and uniformity of taxation. Yet, despite the absence of any express constitutional provision, it is true that the underlying principle of all taxation is that it must be uniform and equal. However, that requirement is confined to the levy and assessment of the tax, and ordinarily does not apply to the distribution or application of the revenues derived therefrom. . . . In considering this particular question we must bear in mind that the legislature was allocating the tax revenues, not solely for a local purpose, but one in which the entire state was interested, namely, education. It must be presumed that, in enacting this statute, the legislature found conditions existing in Onondaga County which warranted the allocation of these moneys to the school districts of the towns of that county, alone, of all the school districts in the state. . . . Having regard, then, for the foregoing presumption, the purpose for which this allocation was made, and the almost unlimited power of the legislature of this state in matters of taxation, even though it must be assumed that an equitable apportionment of taxes is contemplated in every system of government, still in this state the apportionment of tax revenues is a matter resting in the discretion of the legislature . . . and with the exercise of that discretion the courts cannot interfere. . . . Moreover, since the money was allocated for a matter of state-wide interest, namely, education, from the very nature of the situation it is inevitable that at times a larger amount of state funds may be spent in one place than in others. We have therefore reached the conclusion that this statute is not vulnerable because of the fact that the school districts of the towns of Onondaga County are preferred in the apportionment of the tax over those elsewhere in the state. The situation must be remedied, if that be desirable, not by the courts, but by the legislature. . . ."

3. Art. I, Sec. 11—"No person shall be denied the equal protection of the laws of this state or any subdivision thereof. No person shall, because of race, color, creed or religion, be subjected to any discrimination in his civil rights by any other person or by any firm, corporation, or institution, or by the state or any agency or subdivision of the state."

a. *Kemp* v. *Rubin*, 188 Misc. 310, 69 N.Y.S. 2d 680 (1947), affirmed, 273 App. Div. 789, 75 N.Y.S. 2d 768, reversed on other grounds, 298 N.Y. 590, 81 N.E. 2d 325, "In the debates which preceded the adoption of the amendment (pp. 2626 and 2627 of Volume 4, Revised Record of the New York State Constitutional Convention), it was stated that the civil rights concerning which the amendment was designed to afford protection were only those 'which appertain to a person by virtue of his citizenship in a state or a community,' and 'which are found in the constitution, in the Civil Rights Law and in the statutes.' In other words, no new civil rights were intended to be created by the constitutional amendment and it was merely permissive in character. . . ."

b. *Town of Greenburgh* v. *Board of Supervisors of Westchester County*, 53 Misc. 2d 88, 277 N.Y.S. 2d 885 (1967), "It was to correct this inequity in representation that Greenburgh sought relief, claiming that its citizens were denied equal protection of the laws, as guaranteed by the Fourteenth Amendment to the Constitution of the United States, and Article I, section 11, of our own Constitution, whose equal protection clause is as broad in its coverage as that of the Fourteenth Amendment. . . .

". . . . None of these calculations which disclose only slight disparities appear to indicate any invidious discrimination insofar as legislative influence, and effective representation are concerned, and it is only the invidious discrimination which is prohibited by the equal protection clauses with which we are here concerned."

c. *Wasmuth* v. *Allen*, 43 Misc. 2d 14, 250 N.Y.S. 2d 11 (1964), affirmed, 21 A.D. 2d 857, 252 N.Y.S. 2d 58, affirmed, 14 N.Y. 2d 391, 252 N.Y.S. 2d 65, 200 N.E. 2d 756, appeal dismissed, 85 S. Ct. 86, 379 U.S. 11, 13 L. Ed. 2d 23, "The mere fact that one group exercising a function may be required to obtain licenses while another exercising similar ones is exempt is not sufficient to permit the conclusion that control of one constitutes unequal protection proscribed by law. . . . Nor does the doctrine of equal protection of laws mandate the constant and perfect balancing of burdens in our society. . . ."

d. *People* v. *Richter*, 206 Misc. 304, 133 N.Y.S. 2d 685 (Ct. of Special Sessions, 1954), "The constitutional safeguard of equal protection of laws, while prohibiting discrimination among persons and classes of persons, does not require uniformity of laws between geographical areas. It does not preclude the legislature from providing, in the exercise of sovereign discretion delegated to it and circumscribed by other constitutional provisions

not here in question, special local laws for different municipal subdivisions or other geographical areas. True, legislation, though nominally in terms of a merely geographical differentiation, might fall within the interdiction of the constitutional provision if it worked a discrimination among classes of persons by singling out for special treatment a community having a predominantly racial or religious character. . . . Absent such a consideration, the constitutional requirement for equal protection of laws does not raise a barrier to legislation local in its application merely because the burden of a special law . . . may press more heavily upon persons of one community than upon persons of other communities."

e. *Larson Baking Co.* v. *City of N. Y.*, 30 A.D. 2d 400, 292 N.Y.S. 2d 145 (S. Ct., App. Div., 1968), "There was no denial of due process or of equal protection of the law in the establishment by the Commissioner of a schedule of priorities for testing based upon reasonable expectations as to which industries would be the heaviest polluters and upon proceeding to investigate the wholesalers before the retailers. A reasonable classification under the police power does not result in a denial of equal protection of the law despite the fact of incidental inequality in practice. . . . Absent intentional or purposeful discrimination, a reasonable classification will not be disturbed. . . ."

f. *People* v. *Montgomery*, 18 N.Y. 2d 993, 278 N.Y.S. 2d 226, 224 N.E. 2d 730 (1966), "When the state constitutionally or statutorily affords a defendant a right, the exercise thereof cannot be conditioned upon the defendant's ability to pay. . . ."

g. *People* v. *Ronner*, 185 N.Y. 285, 77 N.E. 1061 (1906), 'It was observed in *People* v. *Home Insurance Co.*, 92 N.Y. 347, that 'absolute equality in laying the burdens of taxation, as shown by experience, is impossible of attainment.' Perfection in taxes is a speculative and frivolous idea. The people have conferred upon their legislative body an unlimited power of taxation, which, it is conceded, is essential to the administration of government, and if legislators abuse their power in enacting some new plan of taxation, or act unwisely in imposing some new form of tax, it is to the people that they are answerable. . . ."

B. Education Provision

1. Art. XI, Sec. 1—"The legislature shall provide for the maintenance and support of a system of free common schools wherein all the children of this state may be educated."

a. *Madera* v. *Board of Education of the City of N. Y.*, 267 F. Supp. 356 (Dist. Ct. S. D. N.Y. 1967), reversed on other grounds, 386 F. 2d 778, "The Constitution of the State of New York mandates that the legislature provide free public schools for the education of all the children of the State. Art. XI, Sec. 1. In New York, a person over five and under twenty-one is 'entitled' to attend the free public schools in the district or city in which such person resides. . . . To a minor child in New York, the right to a public school education is of monumental value; it will produce great benefits for him in both tangible and intangible terms in later life. In addition, the education of each child is of paramount importance to us as a nation. A democracy can have no more precious resource than its citizenry . . . [citing the *Brown* quote]. . . . The valuable right to a public school education which New York has made available to all children of the State should not be denied an individual child without the proper safeguards of procedural fairness. . . .

". . . . As the Director of the Bureau of Child Guidance testified most of the pupils involved in the administrative suspension are members of 'multi-problem families.' The expression 'multi-problem families' appears to be a euphemism for the new aliens in our midst—the urban poor. . . . These children emerge, in the main, from the quagmire of urban poverty and the vast social distortions which now infest the inner city. Difficult as the problems thus presented might be, they are not a reason for setting aside constitutional guarantees. . . . For most of these children, perhaps, the one state conferred benefit which they have of greatest monetary value is the right which has been given them by state law to attend the public schools without charge."

b. *Board of Education of Union Free School Dist.* v. *Wilson*, 303 N.Y. 107, 100 N.E. 2d 159 (1951), "It is well recognized that the administration of the school system requires that there be centralized authority, since education is a state interest. . . .

"With respect to the claim that petitioner has been damaged by being deprived of part of its territory in contravention of its rights as a municipal corporation, it may be answered that a school district, though defined as a municipal corporation under section 3 of the General Corporation Law . . . has no territorial integrity; it is always subject

to the reserved power of the state, exercised through its administrative officers in the Education Department, to charge its territory according to current educational needs and good educational principles. . . ."

c. *Buck* v. *State,* 198 Misc. 575, 96 N.Y.S. 2d 667 (Court of Claims, 1950), " 'Public education is a state, and not a municipal function.' N.Y. Constitution, Art. XI, sec. 1 . . . 'The education law was enacted to the end that this constitutional provision might be fully and fairly carried out. . . . The intent of the legislature in enacting the education law is clear. It imposes upon boards of education, as separate corporate bodies representing the state, the responsibility of furnishing an efficient system of public education. . . . The board of education is a governmental agency of the state. It is not a civil division of the state. They were created as a corporate agent to discharge governmental functions. . .' "

d. *People* v. *School Board,* 161 N.Y. 598, 56 N.E. 81 (1900), "The most that the constitution requires the legislature to do it to furnish a system of common schools where each and every child may be educated, not that all must be educated in any one school, but that it shall provide or furnish a school or schools where each and all may have the advantages guarantied (sic) by that instrument. If the legislature determined that it was wise for one class of pupils to be educated by themselves, there is nothing in the constitution to deprive it of the right to so provide. It was the facilities for and the advantages of an education that it was required to furnish to all children, and not that it should provide for them any particular class of associates while such education was being obtained."

C. Taxing Provision

None, but see Art. I, Sec. 11.

D. Compulsory Attendance Statutes

1. Book 16, Education Law, Part 2, Sec. 3201—"No person shall be refused admission into or be excluded from any public school in the State of New York on account of race, creed, color or national origin."

2. Book 16, Education Law, Part 2, Sec. 3202—"A person over five and under twenty-one years of age is entitled to attend the public schools maintained in the district or city in which such person resides without the payment of tuition. . . ."

3. Book 16, Education Law, Part 2, Sec. 3205—"In each school district of the State each minor from seven to sixteen years of age shall attend upon full time day instruction."

4. Book 16, Educational Law, Part 2, Sec. 3209—"Public officials, except as otherwise provided by law, shall furnish indigent children with suitable clothing, shoes, books, food and other necessaries to enable them to attend upon instruction as hereinbefore required by law."

E. School Finance Policy Statement

None

NORTH CAROLINA

A. General Provisions

1. Art. I, Sec. 1—". . . [W]e hold it to be self-evident that all persons are created equal; that they are endowed by their Creator with certain inalienable rights. . . ."

2. Art. I, Sec. 17—"No person ought to be . . . in any manner deprived of his life, liberty or property, but by the law of the land."

a. *Motley* v. *State Board of Barber Examiners,* 228 N.C. 337, 45 S.E. 2d 550 (1947), "These provisions of the Constitution are not so naive as not to contemplate the classifications and distinctions which orderly government is required to make with

respect to the subject of its control. . . . It is only when the classification, or the distinction, is arbitrary and unjustifiable upon any reasonable view that it becomes invidious and offensive to the Constitution."

b. *Leonard* v. *Maxwell*, 216 N.C. 89, 3 S.E. 2d 316 (1939), "It may also be noted that the requirements of 'uniformity,' 'equal protection,' and 'due process' are, for all practical purposes, the same under both the State and Federal Constitutions."

c. *State* v. *Whitaker*, 228 N.C. 352, 45 S.E. 2d 860 (1947), aff'd, 335 U. S. 525, "The appellants contend that Chapter 328, together with Chapter 75 [State right-to-work laws], constitutes class legislation and is discriminating so as to deny them equal protection as guaranteed by the Fourteenth Amendment of the Federal Constitution and Article I, Section 17 of the State Constitution. . . . Any legislation in exercise of the police power must per force affect in different degrees persons or groups within its orbit who occupy different economic, social or political positions with reference to the ends sought by the legislation."

B. Education Provisions

1. Art. IX, Sec. 1—"Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools, libraries, and the means of education shall be forever encouraged." (As amended, 1971.)

2. Art. IX, Sec. 2—(1) The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools, which shall be maintained at least nine months in every year, and wherein equal opportunities shall be provided for all students.

"(2) The General Assembly may assign to units of local government such responsibility for the financial support of the free public schools as it may deem appropriate. The governing boards of units of local government with financial responsibility for public education may use local revenues to add to or supplement any public school or post-secondary school program." (As amended, 1971.)

a. *Harris* v. *Board of Commissioners of Washington County*, 274 N.C. 343, 163 S.E. 2d 287 (1968), "The constitutional mandate to the General Assembly is to provide by taxation and otherwise for a general and uniform system of public schools. This mandate contemplates a system of public schools sufficient to meet, within the bounds of available resources, the educational needs of the people of the state."

b. *Lacey* v. *Fidelity Bank*, 183 N.C. 373, 111 S.E. 612 (1922), "A proper consideration of the article will clearly disclose that its provisions are mandatory, imposing on the legislature the duty of providing by taxation or otherwise for a general and uniform system of public education. . . ."

c. *Moore* v. *Board of Education of Iredell County*, 212 N.C. 499, 193 S.E. 732 (1937), "The decisions of this court through the years . . . have been uniform in holding that the mandate of article IX . . . is upon and exclusively within the province of the General Assembly. Laws passed in obedience to such mandate have been repeatedly approved and upheld by the decisions of this court."

d. *Board of Education* v. *Board of Commissioners*, 174 N.C. 469, 93 S.E. 1001 (1917), ". . . [I]t is manifest that these constitutional provisions were intended to establish a system of public education adequate to the needs of a great and progressive people, affording school facilities of recognized and ever-increasing merit to all the children of the state and to the full extent that our means could afford and intelligent direction accomplish. . . . The term 'uniform' here clearly does not relate to 'schools,' requiring that each and every school in the same or other district throughout the state shall be of the same fixed grade, regardless of the age or attainments of the pupils; but the term has reference to and qualifies the word 'system,' and is sufficiently complied with where, by statute or authorized regulation of the public school authorities, provision is made for establishment of schools of like kind throughout all sections of the state and available to all of the school population of the territories contributing to their support."

C. Taxing Provision

1. Art. V, Sec. 3—"This power of taxation shall be exercised in a just and equitable manner, for public purposes only, and shall never be surrendered, suspended, or contracted away. Only the General Assembly shall have the power to classify property, which powers shall be exercised and shall not be delegated only on a statewide basis. No class of property shall be taxed except by uniform rule, and every classification shall be made by general law uniformly applicable in every county, city and town, and other unit of local government." (As amended, 1971.)

a. *Jamison* v. *City of Charlotte*, 239 N.C. 682, 80 S.E. 2d 904 (1954), "Art. V, Sec. 3 of our Constitution imperatively requires in express terms that all real and personal property be taxed by a uni-

form rule. . . . Uniformity in taxation on real and personal property is effected, when the tax is levied equally and uniformly on all property *in the same class.*" (Emphasis in the original.)

b. *State* v. *City of Leaksville,* 275 N.C. 41, 165 S.E. 2d 201 (1969), "Unquestionably the Constitution requires that the rule of uniformity be observed. It is observed if the rate is uniform throughout each taxing authority's jurisdiction."

c. *Southern Grain & Provision Co.* v. *Maxwell,* 199 N.C. 661, 155 S.E. 557 (1930), "The power of the state to classify for the purpose of taxation is flexible and must of necessity cover a wide range. The predominant limitation imposed by the fundamental law upon the exercise of such power is declared to be that the classification 'must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced should be treated alike'." (See also *Snyder* v. *Maxwell,* 217 N.C. 617, 9 S.E. 2d 19 (1940); *Great Atlantic & Pacific Tea Co.* v. *Doughton,* 196 N.C. 145, 144 S.E. 701 (1928).)

d. *State* v. *Harris,* 216 N.C. 746, 6 S.E. 2d 854 (1940), "It cannot be successfully maintained that a tax which is levied on a part of the citizens of the state for the privilege of engaging in a business is equitably levied when a large number of the counties of the state are not included and citizens therein engaged in a like business are left immune from the tax."

D. Compulsory Attendance Statutes

1. Art. IX, Sec. 11—"The General Assembly shall provide that every child, of appropriate age and sufficient mental and physical ability shall attend the public schools unless educated by other means." (As amended, 1971.)

2. Section 115–166—"Every parent, guardian or other person in this state having charge or control of a child between the ages of seven and sixteen years shall cause such child to attend continuously for a period equal to the time which the public school to which the child is assigned shall be in session."

E. School Finance Policy Statement

None

NORTH DAKOTA

A. General Provisions

1. Art. I, Sec. 1—"All men are by nature equally free and independent and have certain inalienable rights. . . ."

a. *State* v. *Cromwell,* 72 N.D. 565, 9 N.W. 2d 914 (1943), "We shall first examine the contention that the statute violates section 1 and the due process clause of section 13 of the Constitution of North Dakota. We will consider these two sections together because the second supplements and supports the first which defines and declares the inherent rights of men, while the second protects and guarantees the exercise and enjoyment of those rights. Thus, it follows that there cannot be a violation of section 1 unless there be also a violation of section 13."

2. Art. I, Sec. 11—"All laws of a general nature shall have a uniform operation."

a. *Vermont Loan & Trust Co.* v. *Whitheld,* 2 N.D. 82, 49 N.W. 318 (1891), "From the foregoing propositions it follows of necessity that the legislature has power to classify persons and subjects for the purpose of legislation, and to enact law applying specifically to such classes, and, while the laws thus enacted operate uniformly upon all members of the class, they are not vulnerable to the constitutional inhibition under consideration. But this power of the legislature is circumscribed. . . . Classification must be based upon such differences

in situation, constitution, or purposes, between the person or things included in the class and those excluded therefrom, as fairly and naturally suggest the propriety of and necessity for different or exclusive legislation in the line of the statute in which the classification appears."

b. *Rosedale School Dist. No. 5* v. *Towner County*, 56 N.D. 41, 216 N.W. 212 (1927), "While there is some force in respondent's argument, we are constrained to the view that the alleged discrimination against taxpayers residing in unorganized territory does not render the law violative of either section 11 or section 20 of the state constitution. The object of both of these provisions is to inhibit the legislature from conferring special benefits, or placing special burdens, upon certain classes, or upon certain localities, which are not placed upon other classes or localities similarly situated. These constitutional provisions, however, were not intended to inhibit the legislature from classifying persons or things or political subdivisions for the purpose of legislation."

c. *Melland* v. *Johanneson*, 160 N.W. 2d 107 (1968), "Sections 11 and 20 of the state constitution do not nor does the Fourteenth Amendment to the constitution of the United States prohibit or prevent classification provided such classification is reasonable for the purpose of legislation, the purpose of the law is not clearly arbitrary, and is not a subterfuge to shield one class or to burden another or to oppress unlawfully in its administration."

3. Art. I. Sec. 13—"No person shall . . . be deprived of life, liberty or property without due process of law."

a. *State* v. *Cromwell, supra*, "Due process of law means 'the law of the land'; that which 'secures the individual from the arbitrary exercise of the powers of government, unrestrained by the established principles of private rights and distributive justice'. . . . Thus the due process clause protects and insures the use and enjoyment of the rights declared by section 1 of the Constitution."

b. *Bratberg* v. *Advance-Rumely Thresher Co.*, 61 N.D. 452, 238 N.W. 552 (1931), "There is nothing in the Fourteenth Amendment or in said section 13, which affects in any way the right of a state to make reasonable classifications. . . . The state may classify persons and objects for the purpose of legislation if the classification is based on proper and justifiable distinction considering the purpose of the law."

4. Art. I, Sec. 20—"No special privileges or immunities shall ever be granted which may not be altered, revoked or repealed by the legislative assembly; nor shall any citizen or class of citizens be granted privileges or immunities which upon the same terms shall not be granted to all citizens."

a. *Vermont Loan & Trust Co.* v. *Whitheld, supra.*

b. *Rosedale School Dist. No. 5* v. *Towner County, supra.*

c. *Melland* v. *Johanneson, supra.*

d. *Ferch* v. *Housing Authority of Cass County*, 79 N.D. 764, 59 N.W. 2d 849 (1953), "This constitutional provision does not prohibit appropriate legislative classification where proper facts justify such action as long as the act applies uniformly to all those within the class under similar circumstances. Any classification is permissible which has a reasonable relation to some permitted end of governmental action. . . . Ability to pay appears to be proper consideration to justify classification. . . . The State Act is enacted for the benefit of people of low income. It prescribes rules for determining the limit of income under which the benefits are available. The benefits of the act are open to all people under that limit. The act grants no privileges to a favored few. All persons similarly situated are given the same opportunity under the State Act to the extent of the facilities provided." (See also *Fradet* v. *City of Southwest Fargo*, 79 N.D. 799, 59 N.W. 2d 871 (1953).)

e. See also *State* v. *E. W. Wylie Co.*, 79 N.D. 471, 58 N.W. 2d 76 (1953).

B. Education Provisions

1. Art. II, Sec. 62—"The general appropriation bill shall embrace nothing but appropriations for the expenses of the executive, legislative and judicial departments of the state, interest on the public debt, and for public schools."

2. Art. II, Sec. 69—"The legislative assembly shall not pass local or special laws in any of the following enumerated cases, that is to say: . . .

"12. Providing for the management of common schools."

a. *Anderson* v. *Peterson*, 78 N.D. 949, 54 N.W. 2d 542 (1952), "The Reorganization Act applies to all school districts wishing to reorganize under its provisions without any discrimination. There are no exclusions from its provisions. It is a general law of uniform operation as provided by section 11 of the constitution."

3. Art. VIII, Sec. 147—"A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of that government and the prosperity and happiness of the people, the legislative assembly shall make provision for the establishment and maintenance of a system of public schools which shall be open to all children of the State of North Dakota and free from sectarian control. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota."

a. *Todd* v. *Board of Education,* 34 N.D. 235, 209 N.W. 369 (1926), "Constitution, Sections 147 and 148, requires the establishment and maintenance by the state of a uniform system of free public schools, but this requirement is satisfied by provision for the creation of school districts and for a uniform system of schools in those districts. . . . The constitutional requirement surely does not contemplate that school facilities provided in any district by means of taxes imposed therein shall be available to pupils from other districts without charge. To hold that it does would require the constitutional guarantee of uniformity of taxation be disregarded."

4. Art. VIII, Sec. 148—"The legislative assembly shall provide for a uniform system of free public schools throughout the state, beginning with the primary and extending through all grades up to and including the schools of higher education, except that the legislative assembly may authorize tuition, fees and service charges to assist in the financing of public schools of higher education."

a. *Todd* v. *Bd. of Education, supra.*

b. *Anderson* v. *Peterson, supra,* "Thus the legislature is given the power to establish a complete and efficient system for education of the youth of the state. It is not limited in that power by any action or desire of the different communities of the state. It can provide for the boundaries and changes of boundaries, for the levy of taxes for school purposes and for such other matters as it seems necessary in order to carry out the provisions of the constitution."

5. Art. VII, Sec. 149—"In all schools instructions shall be given as far as practicable in those branches of knowledge that tend to impress upon the mind the vital importance of truthfulness, temperance, purity, public spirit, and respect for honest labor of every kind."

a. *Anderson* v. *Peterson, supra.*

6. Art. VII, Sec. 151—"The legislative assembly shall take such other steps as may be necessary to prevent illiteracy, secure a reasonable degree of uniformity in course of study, and to promote ments."

C. Taxing Provision

1. Art. XI, Sec. 176—"Taxes shall be uniform upon the same class of property including franchises within the territorial limits of the authority levying the tax."

a. *Eisenzimmer* v. *Bell,* 75 N.D. 733, 32 N.W. 2d 891 (1948), "The Constitution does not forbid the classification of property for the purpose of taxation."

b. *Northwestern Improvement Co.* v. *Morton County,* 78 N.D. 29, 47 N.W. 2d 543 (1951), "'. . . [T]he members of the court are all agreed that under sections 176 and 179 of the State constitution the legislature has wide discretionary powers to classify property for the purposes of taxation, and that the *standard of uniformity under section 176 of the state constitution is substantially the same as the standard of equality under the Fourteenth Amendment to the Constitution of the nation*'." (Emphasis in the original.)

c. *Souris River Telephone Mutual Aid Corp.* v. industrial, scientific, and agricultural improve- *State,* 162 N.W. 2d 685 (1968), "The 1914 Amendment to section 176 of the North Dakota Constitution changed the state's method of taxation from one of uniform rule upon property according to its true value to one of legislative discretion to classify subjects, including property and persons, for tax purposes. This legislative authority is subject only to the limitation precluding arbitrary classification as prohibited by the Fourteenth Amendment to the United States Constitution."

D. Compulsory Attendance Statute

1. Secton 15-34.1-01—"Every parent, guardian, or other person who resides within any school district, or who resides upon any government base or installation without any school district, and has control over any educable child of an age of seven years to sixteen years . . . shall send or take such child to a public school each year during the entire time such school is in session."

E. School Finance Policy Statement

1. Section 15-40.1-06—"It is the intent of the legislative assembly to support elementary and secondary education in this state from state and county funds based on the educational cost per pupil, exclusive of the cost of physical facilities, transportation, and current indebtedness."

OHIO

A. General Provisions

1. Art. I, Sec. 2—"All political power is inherent in the people. Government is instituted for their equal protection and benefit . . . ; and no special privileges or immunities shall ever be granted, that may not be altered, revoked, or repealed by the General Assembly."

a. *Youngstown Sheet & Tube Co.* v. *City of Youngstown,* 91 OA 431, 49 00 31, 108 N.E. 2d 571 (1951), "Equal protection means the protection of equal laws. . . . It is, however, manifestly impossible to obtain an absolute universality of operation, and due regard must be had as to different capabilities, conditions and relations between men and physical forces. There is a wide latitude of selection of classification, and it is only when the power of selection has been abused that the courts may interfere.

"One of the most sensible tests is whether any substantial favor is gained by one class, or any greater burden is fastened on the other by reason of the classification. . . . A classification for taxation, to be valid, must be a classification on the subject of taxation—property—and not a classification on taxpayers."

b. *Continental Can Co.* v. *Donahue,* 5 OS 2d 224, 34 00. 2d 430, 215 N.E. 2d 400 (1966), "As long as appellant bears a burden equal to that of all taxpayers similarly situated, and as long as the appellant's property is taxed and assessed in the same manner as the property of other taxpayers in the same class, and as long as the tax classification in which appellant's property is placed is not unreasonable or arbitrary, there is neither a violation of appellant's right to equal protection of the laws under the constitutions of the United States and Ohio, nor is there a violation of section 2 of Article XII of the Ohio constitution."

2. Art. I, Sec. 16—"All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have a remedy by due course of law, and shall have justice administered without denial or delay."

a. *In re Pollak's Appeal,* 89 OLA 112, 182 N.E. 2d 69 (1962), "In Ohio, it has been determined that 'due course of law' in section 16, Article I, Ohio Constitution is equivalent to 'due process of law' as it appears in Amendment XIV, Constitution of the United States." (Additional case law indicates that this refers to *procedural* due process rights to notice and hearing as opposed to *substantive* due process.)

3. Art. II, Sec. 26—"All laws of a general nature, shall have a uniform operation throughout the state."

a. *Village of Beachwood* v. *Board of Elections,* 167 OS 369, 5 00 2d 6, 148 N.E. 2d 921 (1958), "This court has held many times that, to comply with this section, legislation need not affect every person in the state, but that a reasonable classification may be made, and it is sufficient if the legislation operates equally upon every person and locality within such classification."

b. *Brown* v. *State,* 120 OS 297, 166 N.E. 214 (1929), ". . . [I]t may be stated that . . . the majority of cases . . . have been quite strict in requiring legislation the subject matter of which is general in its nature, to be given general application. . . . We have already referred to several cases relating to schools [holding that the subject matter of schools is of a general nature]. It is difficult to see

how an act relating to a public library can be of any different character from these referred to in the various cases hereinbefore discussed."

c. *State* v. *Spellmire*, 65 N.E. 619, 67 OS. 77 (1902), ". . . [T]he question as to whether a law is of a general nature must be determined from its subject matter, operation, and effect, and not merely from its form.

"[In the California constitutional provision] the words 'throughout the state' are omitted, and hence, it has been held in that state that a statute which has a uniform operation in the city or county, or to the class or subject to which it has been applied, conforms to the constitution of that state. Such a construction cannot be tolerated in this state for a moment. Here the law must have a uniform operation throughout the state.

"[Certain cases in the past], while conceding the subject of schools to be a subject matter of a general nature, under our constitution, carved out of that general subject matter a so-called special or local subject matter,—a special school district. . . . After an exhaustive examination of the decisions of this court on this subject, it is so clear that the doctrine of carving a special or local subject matter out of one of a general nature, imported from California and adopted in [those cases], is in conflict with section 26, art. II, of our constitution, that we are compelled to overrule the *Shearer* case [accepting the doctrine] and to reaffirm the *Powers* case [rejecting the doctrine], and the same is accordingly done."

d. See also *Hubbard* v. *Fitzsimmons*, 57 OS 43, 49 N.E. 477 (1898).

e. *Miller* v. *Korns*, 107 OS 287, 140 N.E. 773 (1923), "There is considerable authority to the effect that so long as a tax is uniformly laid the legislature may appropriate the proceeds of that tax by a rule that is not uniform, in case the appropriation is reasonable and made in pursuance of a valid and legitimate State purpose."

B. Education Provisions

1. Art. I, Sec. 7, "Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the General Assembly to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction." (Case law deals primarily with religion in the schools, exempting school property from taxation, laws requiring school children to have vaccinations, etc., nothing that would appear relevant to school finance litigation.)

2. Art. VI, Sec. 2—"The General Assembly shall make such provisions, by taxation or otherwise, as . . . will secure a thorough and efficient system of common schools throughout the state. . . ."

3. Art. VI, Sec. 3—"Provision shall be made by law for the organization, administration and control of the public school system of the State supported by public funds."

a. *State* v. *Green*, 160 OS 175, 51 00 442, 115 N.E. 2d 157 (1953), "Under sections 1, 2 and 3 of Article VI of the Ohio Constitution, the General Assembly is given exceedingly broad powers to provide a thorough and efficient system of common schools by taxation, and for the organization, and administration and control, thereof." (Relating to an unsuccessful attack on the legislature's enactment of a change in the method of forming school districts.)

b. *Miller* v. *Korns, supra*, "[Art. VI, Sec. 2] calls for the upbuilding of a system of schools throughout the state, and the attainment of efficiency and thoroughness in that system is thus expressly made a purpose, not local, not municipal, but state-wide. . . . A thorough system could not mean one in which part or any number of the school districts of the state were starved for funds. An efficient system could not mean one in which part or any number of school districts of the state lacked teachers, buildings, or equipment." (Upholding a State equalization plan whereby moneys raised by a uniform $2.65-mill tax on real property throughout the State were retained by each county for the support of its schools and apportioned to the school districts within that county on the basis of certain educational needs within the individual districts.)

c. *1933 OAG No. 1409*, "Common schools or 'public schools' are those schools or that system of schools established by laws enacted by the legislature in pursuance of the constitutional mandate to establish a thorough and efficient system of common schools throughout the state administered by public agencies created by law and maintained from public funds raised by taxation or from school funds otherwise obtained."

C. Taxing Provision

1. Art. XII, Sec. 2—"No property taxed according to value, shall be taxed in excess of one per-

cent of its true value in money for all state and local purposes, but laws may be passed authorizing additional taxes to be levied outside of such limitation, either when approved by at least a majority of electors of the taxing district voting on such proposition, or when provided for by the charter of a municipal corporation. Land and improvements thereon shall be taxed by uniform rule according to value, except that laws may be passed to reduce taxes by providing for a reduction in value of the homestead of residents sixty-five years of age and older, and providing for income and other qualifications to obtain such reduction."

a. *Myers* v. *Board of Education,* 48 OA 43, 1 00 5, 192 N.E. 393 (1933), "The act is of uniform operation throughout the state, as all school districts similarly situated were entitled to its benefits; and the tax therein provided to be levied was by uniform rule, as it was the same in every school district proceeding pursuant to the act, and the object of the tax was distinctly stated." (Upholding a statute authorizing a school district to make a levy outside the then existing 15-mill limitation to enable the district to participate in the State educational equalization fund.)

b. *Continental Can Co.* v. *Donahue,* 5 OS 2d 224, 34 00. 2d 430, 215 N.E. 2d 400 (1966), "It is well settled in this state that under section 2 of Article XII of the Ohio Constitution only real property is required to be taxed according to uniform rule. The General Assembly may, for purposes of taxation, classify personal property and may tax it in a manner different from real property."

c. *State* v. *Board of Tax Appeals,* 175 OS 410, 25 00 2d 432, 195 N.E. 2d 908 (1964), "Taxation by uniform rule within the requirement of the constitutional provision requires uniformity in the mode of assessment. Thus, inasmuch as property is not assessed on the basis of full value, the percentage of such value which is the basis of taxation or, in other words, the tax basis must be relatively uniform not only throughout the state but also as to the various classes of real property."

d. *See also Goldberg* v. *Board of Revision,* 7 OS 2d 139, 30 00 2d 179, 218 N.E. 2d 723 (1966).

D. Compulsory Attendance Statutes

1. Section 3321.01—"A child between six and eighteen years of age is 'of compulsory school age' for the purpose of sections 3321.01 to 3321.13, inclusive, of the Revised Code."

2. Section 3321.02—"Every child actually resident in the state shall be amenable to the laws relating to compulsory education. . . ."

3. Section 3321.03—"Except as provided in this section, the parent, guardian, or other person having the care of a child of compulsory school age which child has not been determined to be incapable of profiting substantially by further instruction shall cause such child to attend a school which conforms to the minimum standards prescribed by the state board of education . . . or shall otherwise cause him to be instructed in accordance with the law."

a. *State* v. *Gans,* 168 OS 174, 5 00 2d 472, 151 N.E. 2d 709 (1958), "The sections of the code [including the above] exemplify another public policy of this state, which is that our free civilization in this country and in this state will maintain itself and advance only as its members become educated so as to be able to add their knowledge to that of their forebearers and thus progress."

E. School Finance Policy Statement

None

OKLAHOMA

A. General Provisions

1. Art. II, Sec. 7—"No person shall be deprived of life, liberty, or property, without due process of law."

a. *Shaw* v. *State,* 76 Okl. Cr. 271, 134 P. 2d. 999

(1943), "Law, in its regular course of administration through the courts of justice, is 'due process' when operating on all alike, and not subjecting the individual to the arbitrary exercise of the powers of government, unrestrained by the established principles of private right and distributive justice." (From court syllabus.)

b. *Ex parte Autry*, 58 Okl. Cr. 88, 50 P. 2d. 239 (1935), "'Due process of law,' as used in the Bill of Rights, section 7, . . . is intended to protect the citizen against arbitrary action, and to secure to all persons equal and impartial justice."

c. *Keaton* v. *Bonaparte*, 174 Okl. 316, 50 P. 2d. 404 (1935), "Due process of law is shown when opportunity is conferred to invoke the equal protection of the law by judicial proceedings to secure the end and object sought to be attained." (see also *Huston* v. *Curtis Cos., Inc.*, 160 Okl. 216, 16 P. 2d. 874 (1933).)

2. Art. V, Sec. 59—"Laws of a general nature shall have a uniform operation throughout the state, and where a general law can be made applicable, no special law shall be enacted."

a. *School Dist. No. 25 of Woods County* v. *Hodge*, 199 Okl. 81, 183 P. 2d. 575 (1947), "A law may be general and have a local application or apply to a designated class if it operates equally upon all the subjects within the class for which it was adopted. But where a statute operates upon a class, the classification must not be capricious or arbitrary and must be reasonable and pertain to some peculiarity in the subject matter calling for legislation." (See also *Anderson* v. *Walker*, 333 P. 2d. 570 (1958); *Elias* v. *City of Tulsa*, 408 P. 2d, 517 (1965).)

b. *Wells* v. *Childers*, 169 Okl. 336, 163 P. 2d. 1015 (1945), "The purpose of said Bill is to aid 'financially weak school districts in building and equipping adequate school buildings.' Instead of aiding all such 'weak school districts' it includes only those having a school building in which school was held during the school year 1943–44 but not during the school year 1944–45, and which building has been condemned by the State Fire Marshall. . . . The classification is therefore, an arbitrary one and does not embrace all weak school districts that naturally come within the classification of those in equal need of assistance. . . . For the reasons pointed out above, we think the Bill is a special law forbidden by section 59, Article V of the state constitution."

B. Education Provisions

1. Art. I, Sec. 5—"Provision shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of the state and free from sectarian control. . . ."

a. *Board of Education of City of Sapulpa* v. *Board of Commissioners of Creek County*, 127 Okl. 132, 260 P. 22 (1927), "We held, therefore, that not only are the separate scholastic enumerations to be considered in the apportionment of funds derived from the common school funds as aid, but such separate schools are entitled to equal benefits in the expenditure of such funds. . . ."

2. Art. XIII, Sec. 1—"The legislature shall establish and maintain a system of free public schools wherein all the children of the state may be educated."

a. *Tryon Independent School Dist. No. 125* v. *Carrier*, 474 P. 2d. 131 (1970), "Public education is a function of the state. . . . The legislature is vested with plenary power to create, abolish, or change school districts."

b. *School Dist. No. 25 of Woods County* v. *Hodge, supra*, "We see no valid constitutional objection to the method adopted by the legislature for the apportionment of moneys belonging to the state in aid of the educational program adopted to insure uniformity of opportunity to all children of the state to receive at least that degree of instruction embraced by the minimum program made available to all districts through the method of financing best adopted to their location and needs. . . . [T]he duty of establishing and maintaining a system of free public schools has been imposed upon the legislature, and that duty carries with it the implied power to create, alter or even to abolish districts as a means suitable to the accomplishment of that purpose. This power of the legislature is not exhausted so long as there remains room for improvement in the system sought to be established. It may return to its task again and again until the public policy of the state respecting its public schools has been established on a firm and equitable basis." (See also *Public Service Co. of Oklahoma* v. *Parkinson*, 193 Okl. 112, 141 P. 2d. 586 (1943) and *Musick* v. *State*, 185 Okl. 140, 90 P. 2d. 631 (1939).)

c. *Board of Education of City of Ardmore* v. *State*, 26 Okl. 366, 109 P. 563 (1910), "The organization and maintenance of a free public school system for the education of the children of cities contain-

ing a population of 2,000 or over ought to be a matter of as much general state concern as the education of the balance of the children of the state, and ordinarily this function of government is not delegated to such municipalities. . . . The word 'system' itself imports a unity of purpose as well as a unity of operation, and the direction of the legislature to 'establish and maintain a system of free public schools' means one system, which shall be applicable to all the public schools within the state."

d. *State* v. *Excise Board of Okmulgee County*, 172 Okl. 425, 45 P. 2d 480 (1935), ". . . . [W]hen our constitution was adopted providing for a system of free common schools . . . the constitutional makers had in mind to give the youth of the land a free common school education according to the method in vogue in the other states of the Union and according to the system of the other states as it had been practical for generations back."

e. *Stanolind Pipe Line Co.* v. *Tulsa County Excise Board*, 183 Okl. 160, 80 P. 2d. 316 (1938), "[The state constitution] imposes the duty upon the legislature to establish and maintain a system of free public schools wherein all the children of the state may be educated, and section 1, as well as other sections of the 1933 legislative act, are clearly designed to promote equality of facilities. . . . [W]hen the funds of a district are expended in furnishing equal educational facilities for the children of the district it is a use of same for public purposes."

3. Art. XII, Sec. 1a—"The legislature shall, by appropriate legislation, raise and appropriate funds for the annual support of the common schools of the state . . . ; provided that nothing herein shall be construed as limiting any particular school district to the per capita amount specified herein. . . ."

C. Taxing Provisions

1. Art. X, Sec. 5—"Taxes shall be uniform upon the same class of subjects."

a. *Board of County Commissioners* v. *State Board of Equalization*, 363 P. 2d. 242 (1961), "[Appellant] contends, in substance, that the division, or classification, of property into rural and urban . . . can be no part of a proper method of equalizing taxes on the basis of value. . . . These contentions are determined against appellant. . . . [We have] held that the uniformity provision . . . relates to rate of taxation, and *not to the valuation of property*." (Emphasis in the original.)

b. *Custer County Excise Board* v. *St. Louis-San Francisco Ry. Co.*, 201 Okl. 528, 207 P. 2d. 774 (1949), "But any such classification [of property for taxation], made by an authorized agency, must rest upon some difference which bears a reasonable and just relation to the act in respect to which the classification is proposed. And such a classification cannot be made arbitrarily and without any such basis, and without regard to the limitation, sec. 5, article X, that 'taxes shall be uniform upon the same class of subjects.' "

c. *In re Harkness' Estate*, 83 Okl. 107, 204 P. 911 (1922), "Thus it seems that the state may select the 'subjects' which it chooses to levy a tax upon, may arrange them into classes for the purpose of assessment and taxation, and may adopt appropriate, fair and practicable means or measures for ascertaining the amount of taxes which each 'subject' must bear, but when the 'subjects' are once thus classified, the rate then must be uniform upon subjects of the same class; the measure or gauge adopted for ascertaining the amount must be uniformly applied upon subjects of the same class."

d. *McCutchan* v. *Oklahoma Tax Commission*, 191 Okl. 578, 132 P. 2d. 337 (1943), ". . . . Oklahoma may classify persons for taxation, provided the classification is reasonable and related to the object of taxation. . . . All that is required is that there be reasonable classification and reasonable opportunity for uniform or equal incidence upon the classes created. However, there need not be an iron rule of equality."

2. Art. X, Sec. 20—"The legislature shall not impose taxes for the purpose of any county, city, town, or other municipal corporation, but may, by general laws, confer on the proper authorities thereof, respectively, the power to assess and collect such taxes."

a. *Atchison, T&S F. Ry. Co.* v. *State*, 28 Okl. 94, 113 P. 921 (1911), "It is urged . . . that the levy of one-fourth of one mill tax for common school purposes . . . is a tax for the purpose of a municipal corporation; and that the foregoing section of the constitution prohibits the levy of such tax by the legislature. Whether this contention can be sustained depends upon whether a levy of a tax for the purpose of supporting the public schools of the state is a levy for municipal purposes. . . . The mandate of the constitution to establish and maintain public schools throughout the state is directed to the legislature of the entire state, and not to any of the political subdivisions of the state. The establishment and maintenance of the free

public schools is a state function; and the legislature is not only authorized to levy a tax to defray all expenses of the state in the administration of its affairs, but . . . it is made the duty of the legislature to provide by law for an annual tax sufficient, with other resources, to defray the ordinary expenses of the state for each fiscal year."

b. *Board of Commissioners of Marshall County* v. *Shaw*, 199 Okl. 66, 182 P. 2d. 507 (1947), ". . . [W]e have repeatedly held that . . . [Sec. 20, Art. X] does not constitute a limitation upon the power of the state to impose taxes for purposes in which the state has a sovereign interest, although the character of such taxes may be municipal." (See also *Pawnee County Excise Board* v. *Kurn*, 187 Okl. 110, 101 P. 2d. 614 (1940); *Rogers* v. *Bass & Harbour Co.*, 64 Okl. 321, 168 P. 212 (1917).)

D. Compulsory Attendance Statute

1. Art. XIII, Sec. 4—"The legislature shall provide for the compulsory attendance at some public or other school, unless other means of education are provided, of all children in the state who are sound in mind and body, between the ages of eight and sixteen years, for at least three months in each year."

a. *Consolidated School Dist. No. 12* v. *Union Graded School Dist. No. 3*, 185 Okl. 485, 94 P. 2d. 549 (1939), "Our citizens have spoken emphatically in the Constitution, Article XIII, Okl. St. Ann., and by numerous statutes upon the subject of common education, and it is elementary that the offer of education of such type is obligatory on the part of the state, and attendance at school on the part of the pupils is compulsory."

E. School Finance Policy Statement

1. Chap. 70, Sec. 18–101—"The legislature hereby declares that this act is passed for the general improvement of public schools in the State of Oklahoma; to provide the best possible educational opportunities for every child in Oklahoma; and to have a more beneficial use of public funds expended for education; and this act shall be liberally construed to attain these goals within the purview of the following principles and policies:

"1. The education of our children is more than the performance of a duty or act of love. It is these things and also the highest expression of enlightened self-interest by the people of Oklahoma. Education is our finest investment.

"2. The system of public schools should be designed to strengthen and encourage local responsibility for control of public education. Local school districts should be so organized, financed and directed that they can provide full educational opportunities for all children. The maximum public autonomy and responsibility for public education should remain with the local school districts and the patrons of such districts.

"3. It is the responsibility of the state on behalf of the people of Oklahoma to establish, maintain, and continually improve the public schools of Oklahoma. In furtherance of this responsibility, the people of Oklahoma through the state have the responsibility to support financially the public schools.

"4. Effective local control requires that local school districts contribute to the support of school budgets in proportion to their respective abilities.

"5. The system of public school support should assure that state and local trends are adequate for the support of a realistic foundation program. It is unrealistic and unfair to the children of the less wealthy districts to provide less state support than is necessary for full educational opportunities.

"6. The system of public school support should encourage local school districts to provide and support improved educational programs.

"7. The system of public school support should make provisions for the apportionment of state funds to local school districts on a strictly objective basis that can be computed as well by the local districts as by the state.

"8. The system of public school support should effect a partnership between the state and each local district, with each participating in accordance with its relative ability. The respective abilities should be combined to provide a financial plan between the state and the local school district that will assure full educational opportunities for every child in Oklahoma.

"9. State support should be extended to all local districts regardless of wealth, for this not only develops a sense of broader responsibility, but also creates flexibility taxwise permitting the exercise of local initiative. State support should, to assure equal educational opportunity, provide for as large a measure of equalization as possible among districts. The taxing power of the state should be utilized to raise the level of educational opportunity in the financially weakest districts of the state.

"10. The system of public school support should

provide for an equitable system of state and local sharing in the foundation program. The degree of local sharing should be based, as nearly as possible, on the true ability of the local district, so that each may contribute uniformly to the foundation program."

OREGON

A. General Provisions

1. Art. I, Sec. 1—". . . [A]ll men, when they form a social compact are equal in right. . . ."

a. *Namba* v. *McCourt,* 185 Or. 579, 204 P. 2d 569 (1949), "A class of persons may be singled out and special burdens may be placed upon it, provided the class manifests characteristics which to a real and substantial extent distinguish it from all other persons and justify the imposition of the burden. But color, as well as race and creed, is an unacceptable distinguishing characteristic."

b. *State* v. *Muller,* 48 Or. 252, 85 P. 855 (1906), "Nearly all legislation is special in the objects sought to be obtained or in its application, and the general rule is that such legislation does not infringe the constitutional rights to equal protection of the laws when all persons subject thereto are treated alike under like circumstances and conditions." (Upholding a statute making it a misdemeanor for any employer to require a female to work in a factory, laundry, or mechanical establishment more than 10 hours a day.)

c. *State* v. *Shorey,* 48 Or. 396, 86 P. 881 (1906), "[The Due Process Clause of the Fourteenth Amendment and section I, Article I of the Oregon Constitution] . . . do not limit the power of the state to interfere with the parental control of minors, or to regulate the right of a minor to contract, or of others to contract with him." (Upholding a statute making it a misdemeanor for any employer to require a minor under 16 to work more than 10 hours a day.)

2. Art. I, Sec. 20—"No law shall be passed granting to any citizen or class of citizens privileges, or immunities, which, upon the same terms, shall not equally belong to all citizens."

a. *Foeller* v. *Housing Authority of Portland,* 198 Or. 205, 256 P. 2d 752 (1953), "Classification of cities upon the basis of their population is not improper if their difference in size has a reasonable bearing upon their needs and conditions to which a legislator should give heed." (Upholding an Urban Redevelopment Law which was applicable only to cities with a population of 70,000 or more.)

b. *Kliks* v. *Dalles City,* 216 Or. 160, 335 P. 2d 366 (1959), "The differences upon which the classification is predicated must have a reasonable relationship to the purpose for which the classification is made. . . . [I]nsofar as municipal utility rates are concerned, this means that a difference in rates must find justification in 'a difference in conditions of service'."

c. *State* v. *Wright,* 53 Or. 344, 100 P. 296 (1909), "A statute, which directly or by implication grants special privileges, or imposes special burdens upon persons engaged in substantially the same business, under the same conditions, cannot be sound, because it is class legislation, and an infringement of the equal rights guaranteed by all."

3. Art. I, Sec. 10—"No court shall be secret, but justice shall be administered openly and without purchase, completely and without delay, and every man shall have remedy by due course of law for injury done him in his person, property, or reputation." (This section deals primarily with procedural due process rights in a criminal or tort context.)

B. Education Provisions

1. Art. VII, Sec. 3—"The legislative assembly shall provide by law for the establis' ent of a uniform, and general system of common schools."

a. *Union High School Dist. No. 1* v. *Linn Co.*

Dist. Bound Bd., 244 Or. 207, 416 P. 2d 656 (1966), "The legislature has the constitutional power to create, abolish or alter school districts with or without a vote of the people within the area involved. Such authority includes the power to confirm as valid the existence of school districts operating on a de facto basis."

b. *Campbell* v. *Aldrich*, 159 Or. 208, 79 P. 2d 257 (1938), "It is unquestionably the function of government to establish and maintain public schools. . . . That public education and control thereof is a proper subject for the exercise of the police power is beyond question. It is difficult to conceive of any legislative policy which more vitally affects the public welfare."

c. *Eugene School Dist. No. 4* v. *Fisk*, 159 Or. 245, 79 P. 2d 262 (1938), "Thus, the constitution of our state, in recognition of the fact that an indispensable essential of a democracy is an educated citizenry, enjoins upon the legislature the duty to establish 'a uniform and general system of common schools.' The school districts to which the proceeds of this tax are apportionable by the county school superintendent . . . are state agencies. . . . Therefore, payment to the district is tantamount to payment to the state."

2. Art. IV, Sec. 23—"The legislative assembly shall not pass special or local laws, in any of the following enumerated cases, that is to say: . . .

"Providing for supporting Common schools, and for the preservation of school funds."

C. Taxing Provisions

1. Art. I, Sec. 32—"No tax or duty shall be imposed without the consent of the people or their representatives in the legislative assembly; and all taxation shall be uniform on the same class of subjects within the territorial limits of the authority levying the tax."

a. *A. C. Dalton Lumber Corp.* v. *Ellis*, 228 Or. 525, 365 P. 2d 867 (1961), "Under Art. I, section 32, of the Oregon Constitution, the legislature is granted specific authority to classify subjects for tax purposes, provided the classification is reasonable and the tax is applied uniformly within the class. . . . Although wide discretion as to classification retained by the legislature often results in narrow distinctions, these distinctions, if reasonably related to the object of legislation, are sufficient to justify the classification."

b. *Robinson* v. *Stewart*, 216 Or. 532, 339 P. 2d 432 (1959), "The constitution and statutes of this state require 'relative uniformity.' . . . However, 'uniform operation' of law does not require uniformity of consequences. . . . From this it appears that the requirements of 'relative uniformity' are met when the basic rules for taxation are followed irrespective of the method."

c. *Smith* v. *Barnard*, 142 Or. 567, 21 P. 2d 204 (1933), "Otherwise stated, it is the contention of the plaintiffs that the practical effect of this law is to place an unequal burden on the taxpayers of school districts accepting high school pupils from nonhigh school districts, as the cost of furnishing such education greatly exceeds the amount distributed. . . ."

d. *Standard Lumber Co.* v. *Pierce*, 112 Or. 314, 228 P. 812 (1924), ". . . [I]t is manifest that the only limitation imposed upon the taxing power of the several states by the Fourteenth Amendment is this—all taxation shall be uniform upon the same class of subjects. For all practical purposes the limitation mentioned is identical with the restrictions imposed by the Oregon Constitution upon the power of taxation."

e. *State* v. *County Court of Malheur County*, 185 Or. 392, 203, P. 2d 305 (1949). (See below.)

2. Art. IX, Sec. 1—"The legislative assembly shall, and the people through the initiative may, provide by law uniform rules of assessment and taxation. All taxes shall be levied and collected under general laws operating uniformly throughout the state."

a. *Standard Lumber Co.* v. *Pierce, supra.*

b. *State* v. *County Court of Malheur County*, 185 Or. 392, 203 P. 2d 305 (1949), "The respondent contends that the tax to be levied [county contribution to the State welfare program] . . . is a state tax, and must therefore be uniform throughout the state. Reliance is placed upon the provisions of Oregon Constitution, Article I, section 32, and Article IX, section 1. The two sections are to be read together . . . [;] the requirement is that taxation shall be uniform 'within the territorial limits of the authority levying the tax.' This court has held that the rate of taxation must be uniform and equal 'throughout the taxing district, whether state or local.' It follows that if a tax is equal and uniform throughout the taxing district there is no violation of the constitutional mandate."

c. *Smith* v. *Barnard, supra.*

3. Art. IX, Sec. 2—"The legislative assembly shall provide for raising revenue sufficient to defray the expenses of the state for each fiscal year."

a. *Eugene School Dist. No. 4* v. *Fisk, supra.*

D. Compulsory Attendance Statutes

1. Section 339.010—"Except as provided . . . all children between the ages of 7 and 18 years who have not completed the 12th grade are required to attend regularly a public full-time school of the school district in which the child resides."

2. Section 339.020—"Except as provided . . . every person having control of any child between the ages of 7 and 18 years who has not completed the 12th grade is required to send such children to and maintain such child in the regular attendance at a public full-time school during the entire school term."

E. School Finance Policy Statement

1. Section 327.010—"The Basic School Support Fund shall be used exclusively for the improvement and support of standard public elementary and secondary schools and shall be distributed to equalize educational opportunities and conserve and improve the standards of public elementary and secondary education."

PENNSYLVANIA

A. General Provisions

1. Art. I, Sec. 1—"All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness."

a. *Beauty Hall, Inc.* v. *State Board of Cosmetology*, 418 Pa. 225, 210 A. 2d 495 (1965), "The import of these cases is that an adverse, economic impact which is merely an indirect, remote and nonpurposeful consequence or merely a side effect of the direct, governmental regulation of or imposition of burdens upon other persons does not constitute a deprivation of or interference with property within the meaning of the constitutional provisions [Art. I, sec. 1 and the 14th Amendment to the U. S. Constitution] asserted by the appellee. . . ."

b. *Appeal of J. A. Young & Co.*, 105 Pa. Sup. 153, 160 A. 151 (1932).

2. Art. I, Sec. 9—"In all criminal prosecutions the accused . . . [cannot] . . . be deprived of his life, liberty, or property, unless by the judgment of his peers or the law of the land."

a. *Application of Christy*, 362 Pa. 347, 67 A. 2d 85 (1949), ". . . [D]ue process of law and equal protection of the laws are secured if the laws operate on all alike and do not subject the individual to an arbitrary exercise of the powers of government."

B. Education Provision

1. Art. III, Sec. 14—"The General Assembly shall provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth."

a. *Kaplan* v. *School District of Philadelphia*, 178 Pa. Sup. 88, 113 A. 2d 164 (1955), "The duty to 'provide for the maintenance and support of a thorough and efficient system of public schools' for the education of the children of this Commonwealth is imposed upon the legislature by the Constitution of this Commonwealth. . . . The schools are for the students. It is their welfare that the Constitution aims to promote by the 'thorough and efficient system of public schools'. It was to promote their welfare that the General Assembly passed the teacher's tenure law, and it must be interpreted in this light by us. 'The aim and object of our school system,' said Justice Drew in *Walker* v. *Scranton School District*, 1946, 338 Pa. 104, 109, 110, 12 A. 2d 46, 48, 'is to provide the best education for the children of the Commonwealth. It cannot be doubted that it was the intention of the legislature to subordinate all other considerations'."

b. *Ehret* v. *School Dist. of Borough of Kulpmont*, 333 Pa. 518, 5 A. 2d 188 (1939), ". . . The Constitu-

tion has placed the educational system in the hands of the legislature, free from any interference from the judiciary save as required by constitutional limitations. We may only . . . ascertain the legislative intent.

". . . . As we said in Walker's Appeal, 332 Pa. 488, 2 A. 2d 770, 772, opinion filed December 5, 1938: 'The fundamental public policy, expressed in the Constitution and underlying school laws, is to obtain a better education for the children of the Commonwealth.'

". . . . The Constitution . . . directs the General Assembly to 'provide for the maintenance and support of a thorough and efficient system of public schools.' The legislature is thus empowered to determine what is 'efficient' in school management. . . . 'Efficient' has reference not only to the qualifications of the teacher, but relates to other basic matters associated with the school system."

c. *Malone* v. *Hayden,* 329 Pa. 213, 197 A. 344 (1938), "The Constitution of Pennsylvania . . . not only recognizes that the cause of education is one of the distinct obligations of the state, but makes of it an indispensable governmental function. The power of the state over education thus falls into that class of powers which are made fundamental to our government. In the abstract it is not an absolute essential to government as taxation, law enforcement, and preservation of the peace are essential, but by the express provision of the Constitution it ranks with them as an element necessary for the sustenance and preservation of our modern state. Education is today regarded as one of the bulwarks of democratic government. Democracy depends for its very existence upon the enlightened intelligence of its citizens and electors. When the people directed through the Constitution that the General Assembly should 'provide for the maintenance and support of a thorough and efficient system of public schools', it was a positive mandate that no legislature could ignore. The power over education is an attribute of government that cannot be legislatively extinguished. . . .

"In considering laws relating to the public school system, courts will not inquire into the reason, wisdom, or expediency of the legislative policy with regard to education, but whether the legislation has a reasonable relation to the purposes expressed in Art. X, Sec. 1 [now Art. III, Sec. 14], and whether the fruits or effects of such legislation impinge the article by circumscribing it, or abridging its exercise by future legislatures within the field of a 'thorough and efficient system of public schools'."

d. *Wilson* v. *School Dist. of Philadelphia,* 328 Pa. 225, 195 A. 90 (1937); "There is no such historical basis to support conferring the taxing power on a school district. . . . The school system, or the school districts, then are but agencies of the state legislature to administer this constitutional duty. As such agencies, they do not possess the governmental attributes of municipalities. They are not municipal corporations. . . ."

C. Taxing Provision

1. Art. VIII, Sec. 1—"All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws."

a. *Clearfield Bituminous Coal Corp.* v. *Thomas,* 336 Pa. 572, 9 A. 2d 727 (1939), "In *Comm.* v. *Alden Coal Co.,* . . . Justice Stewart, speaking for this court, said: 'The legislature may no longer by arbitrary discrimination subject certain property to taxation, and exempt other property of the same kind and class and similarly situated from an equal burden. . . . It is constantly to be borne in mind that the right of classification is allowed in order to avoid or correct inequalities, never to create them'."

b. *Mikell* v. *School District of Philadelphia,* 359 Pa. 113, 58 A. 2d 330 (1949), "The Act does not violate the tax uniformity requirement of Art. VIII, Sec. 1, of our State Constitution. There is no want of uniformity because one of the first class school districts may possibly levy a tax (within the limits prescribed by the Act) at a rate different than that levied by the other. See *Moore* v. *Pittsburg School Dist.,* 338 Pa. 466, 471–473, 13 A. 2d 29 and *English* v. *Robinson Township School District,* 358 Pa. 45, 53, 55 A. 2d 803. Here also, counsel for plaintiff appropriately concedes that: 'It is accordingly well settled that the legislature may provide in the same taxing statute for a different rate of tax for school purposes on the same class of property situated in Pittsburg and in Philadelphia for the reason that, for the purposes of the uniformity clause, each school district is the authority levying the tax'."

c. *Goldstein* v. *School Dist. of Pittsburgh,* 372 Pa. 188, 93 A. 2d 243 (1953), ". . . [B]ut a legislative body is not required to adopt a method or formula which someone else may consider wisest and best. Such a decision, subject to constitutional limitations, is a matter for the determination and judg-

ment not of the taxpayer or of the courts, but of the legislature. . . .

"It must be remembered that taxation is a practical and not a scientific problem and because of practical conditions or difficulties, or because of the nature of the business or property, perfect uniformity and absolute equality in taxation can at times not be attained."

d. *In re Pa. Co. for Ins. on Lives & Granting Annuities,* 345 Pa. 130, 27 A. 2d 57 (1942), "We note in passing as does the amicus curiae in its brief, that this [referring to the similarity between the 14th Amendment and the uniformity clause] 'does not mean, however, that a statute may not be declared unconstitutional as violative of our state Constitution, though the Federal Courts have similar statutes not violative of the Federal Constitution'."

e. *Moore* v. *School District of Pittsburgh,* 338 Pa. 466, 13 A. 2d 29 (1940), "Philadelphia and Pittsburgh are in the same class of school districts. The act provides in effect for a levy of 10¼ mills in Philadelphia and 12¼ mills in Pittsburgh. It is argued that this is not uniformity. . . . Sticking in the back of the words used in the Constitution this might be so. But when the broader view is taken and consideration is given to what the purpose of the basic law is, it becomes obvious that its provision is not violated. As applied to municipal territorial divisions of the state, it was intended to make uniform the taxes which persons living within any territorial division of the Commonwealth shall be required to pay to support that territorial division. Territorially Philadelphia and Pittsburgh are separate units and the taxable persons in each unit will pay the same tax. . . . Uniformity of taxation means 'equality of burden'. . . . The Constitution does not say that taxes shall be uniform as to classes of municipal divisions of the state, but uniform territorially as the state is divided territorially into cities, counties, townships and school districts. . . . We all know as a matter of fact that taxes are not uniform in the different school districts comprising a class and never have been. They are bound to be different because of varying local conditions. . . . We conclude that the uniformity article of the Constitution is not violated."

f. *Appeal of School District of City of Allentown,* 370 Pa. 161, 87 A. 8d 480 (1952), "Uniformity requires substantial equality of tax burdens. While taxation is not a matter of exact science and perfect uniformity and absolute equality in taxation can rarely be attained, the imposition of taxes which are to a substantial degree unequal in their operation or effect upon similar kinds of business or property, or upon persons in the same classification, is prohibited. . . . Moreover, while reasonable and practical classifications are justifiable, where a formula or method of computing a tax will, in its operation or effect, produce arbitrary or unjust or unreasonably discriminatory results, the constitutional provision relating to uniformity is violated."

D. Compulsory Attendance Statutes

1. Tit. 24, Sec. 13–1327—"Every child of compulsory school age having a legal residence in this Commonwealth, as provided in this article . . . is required to attend a day school. . . . Every parent or guardian, or other person having control or charge of any child or children of compulsory school age is required to send such child or children to a day school. . . ."

2. Tit. 24, Sec. 13–1326—"The term 'compulsory school age,' as hereinafter used, shall mean the period of a child's life from the time the child's parents elect to have the child enter school, which shall be no later than at the age of eight years, until the age of seventeen years. . . ."

E. School Finance Policy Statement

None

RHODE ISLAND

A. General Provisions

1. Art. I, Sec. 2—"All free governments are instituted for the protection, safety and happiness of the people. All laws, therefore, should be made for the good of the whole; and the burdens of the state ought to be fairly distributed among its citizens."

a. *Brown University* v. *Granger*, 19 R.I. 703, 36 A. 720 (1897), ". . . That the last clause of said article relates to and was intended to control, in a general way at least, the framing of laws relating to taxation, there can be no doubt. It clearly means that taxes are to be fairly distributed; that A. ought not to be taxed, and B. exempted from taxation, they being similarly situated; nor ought the one to be taxed on a different basis from the other."

b. *Opinion to the Governor*, 88 R.I. 202, 145 A. 2d. 87 (1958), "This court at various times has stated that this section is advisory and is not a constitutional restraint upon the legislative power of the general assembly. . . ."

2. Art. I, Sec. 10—"In all criminal prosecutions, the accused . . . [shall not] . . . be deprived of life, liberty, or property, unless by the judgment of his peers, or the law of the land."

a. *Haigh* v. *State Board of Hairdressing*, 76 R.I. 512, 72 A. 2d 674 (1950), "This court has held that Art. I, Sec. 10, of the Rhode Island Constitution is narrower in scope than the Fourteenth Amendment to the constitution of the United States and also that it applies only in favor of persons accused of crime. . . ."

B. Education Provision

1. Art. XII, Sec. 1—"The diffusion of knowledge, as well as of virtue, among the people, being essential to the preservation of their rights and liberties, it shall be the duty of the general assembly to promote public schools, and to adopt all means which they may deem necessary and proper to secure to the people the advantages and opportunities of education."

a. *Pawtucket* v. *Pawtucket Teachers' Alliance*, 87 R. I. 364, 141 A. 2d 624 (1958), "Under the provisions of Article XII of the State Constitution education is a state function. As such it is administered and carried out by the cities and towns, through their school committees, as agencies of the state government by virtue of legislation enacted pursuant to Article XII. . . ."

C. Taxing Provision

None.

D. Compulsory Attendance Statute

1. Tit. 16, Chapter 19, Sec. 1—"Every child who has completed seven (7) years of life and has not completed sixteen (16) years of life shall regularly attend some public day school during all the days and hours that the public schools are in session in the city or town wherein the educational facilities are approved by the school committee of the city or town wherein the child resides. . . ."

E. School Finance Policy Statement

1. Tit. 16, Chapter 7, Sec. 15—"The purpose of sections 16-7-15 to 16-7-34, inclusive, is to provide a quality education for all Rhode Island youth by requiring a minimum per pupil expenditure level, by encouraging school committees to provide superior education beyond this minimum, by identifying fiscal responsibilities of school committees, by further improving the efficiency of our school systems through encouraging small school districts to combine into larger more efficient regionalized units, and by incorporating the many various state aids into one (1) comprehensive program."

2. Tit. 16, Chapter 6, Sec. 1—"Public education is hereby declared to be one of the chief responsibilities of the state. This chapter is designed to maintain and improve existing standards of public education in Rhode Island; to attract and encourage qualified persons to enter into and remain in the profession of teaching in the public school and generally to secure and promote the present and future educational welfare of the children attending public schools in this state."

A. General Provision

1. Art. I, Sec. 5—"The privileges and immunities of citizens of this state and of the United States under this Constitution shall not be abridged, nor shall any person be deprived of life, liberty or property without due process of law, nor shall any person be denied equal protection of the laws."

a. *Mills Mill* v. *Hawkins*, 232 S.C. 515, 103 S.E. 2d. 14 (1957), appeal dismissed in 335 U.S. 605 (1958), "We cannot say that the legislature palpably abused its discretion in fixing the boundaries of this district. Its creation was an act of sovereignty. The legislature itself may create a district of this kind and fix its boundaries. Where it does so, the landowners included therein are not entitled to a hearing on the question of whether their lands will be benefited. . . . (T)he legislative determination can be assailed under the due process and equal protection clauses 'only where the legislative action is arbitrary, wholly unwarranted, a flagrant abuse, and by reason of its arbitrary character a confiscation of particular property.' . . . It is equally well settled that to justify an assessment of benefits to particular limits, it is not essential that the benefits be direct or immediate. . . . Nor is there any requirement 'that for every payment there must be an equal benefit.' Due process does not require absolute equality." (Relating to the creation of a water district.)

b. *Martin* v. *School District*, 57 S.C. 125, 35 S.E. 517 (1900), "But we cannot see how the legislation as to this school district deprives the petitioner of his property without the process of law, nor that he is thereby denied the equal protection of the laws; for like all other property holders in the town of Laurens, his property is taxed under the acts of the General Assembly of this state for the support of education. It has been repeatedly held, both by the federal and state courts, that political subdivisions may be clothed by the legislature of the state with power of taxation for certain specified purposes, and within certain specified limits, without impairing the very articles of the federal and state constitutions here relied upon."

c. *Mosley* v. *Welch*, 209 S.C. 19, 39 S.E. 2d. 133 (1946), "It will be observed that the act in question relates only to the fiscal operation of the schools of Williamsburg County. Apart from state aid, the burden of supporting the schools is assumed by the county and the various school districts are relieved from contributing to the cost of the operation of the schools. Whether this should be done in a particular county is peculiarly a local problem dependent upon local conditions. The special legislation relating to numerous counties shows there is a great disparity in the extent of the aid furnished by the counties in the operation of the schools, which probably is largely due to the wide disparity in the financial resources of the various school districts of the state. . . . It is exceedingly doubtful whether a general law, uniform in operation throughout the state, regulating the measure of aid to be given by the counties to the school districts or the extent of the control which should be vested in the county boards of education, could be made applicable. . . .

". . . . Respondents contend that the act contravenes section 5 of Article XI . . . and section 6 of Article XI. . . . In other words, it is argued that the act destroys the separate entity of each school district in Williamsburg County and has the effect of converting the entire County into one school district; that it denies each school district the power to levy additional taxes for its schools; and denies the trustees of the various school districts the right to conduct and operate their schools in the manner provided for by the constitution. . . .

"The constitution does not undertake to prescribe the character or extent of local self-government which shall prevail in the various school districts. In the absence of some constitutional provision supporting it, there is no inherent right of local self-government of the schools which is beyond legislative control. . . . The argument that taxes levied for schools should only be expended in the district where collected is now antiquated and entirely discredited. It has become imperative that aid be extended to the weaker school districts. The educational opportunities of a child should no longer depend on the wealth of the district in which he happens to reside. . . .

"There remains for consideration under this phase of the case the contention that the act denies each school district the power to levy additional taxes for schools. . . . It is clear that the right of a school district to levy an additional tax for the support of its schools is not absolute, but as stated

by the Referee, 'only permissive and subject to authorization by the General Assembly.'"

d. *Harrison* v. *Caudle*, 141 S.C. 407, 139 S.E. 842 (1927), "The equal protection of the laws guaranteed by the constitution (Art. I, Sec. 5), is not violated where there is a classification which rests upon some difference which bears a reasonable and just relation to the act (*sic*) in respect to which the classification is proposed. It simply means that no person, or class of persons, shall be denied the same protection of the laws which is enjoyed by other persons or other classes in the same place and under like circumstances."

e. *State* v. *Touchberry*, 121 S.C. 5, 113 S.E. 345 (1922), "The proposition that the effect of the act was to deprive the defendants of 'due process' and of the 'equal protection of the laws' was not pressed in the argument, but will be briefly noticed. In so far as this contention is directed to the suggestion of unjust discrimination of imposing upon the vehicles of residents of Clarendon County a license tax not imposed on those of other counties and states temporarily using the highways of the county, the question is conclusively resolved against appellants' position by the decision in *Lillard* v. *Melton*, *supra*. . . . The applicable test here is the equality of incidence of the tax 'within the jurisdiction of the body imposing the same'; that is, in the case at bar, within the county empowered to impose the tax."

B. Education Provisions

1. Art. XI, Sec. 5—Free Public Schools; School Districts: [Note: Eliminated by 1952 (47) 2223; 1954 (48) 1965.]

2. Art. XI, Sec. 6—". . . . Any school district may by the authority of the General Assembly levy an additional tax for the support of its schools."

a. *Mosley* v. *Welch*, *supra*.

C. Taxing Provision

1. Art. X, Sec. 1—"The General Assembly shall provide by law for a uniform and equal rate of assessment and taxation. . . ."

a. *Smith* v. *Robertson*, 210 S.C. 99, 41 S.E. 2d. 631 (1947), "Mainfestly, this provision does not mean that all counties shall have the same tax levy, but rather that uniformity of taxation must be co-extensive with the territory to which the tax applies. . . ." (Accord, *Nettles* v. *Cantwell*, 112 S.C. 24, 99 S.E. 765 (1919).)

b. *Parker* v. *Bates*, 216 S.C. 52, 56 S.E. 2d. 723 (1949), "Equality of the burden of taxation is, we agree, a fundamental requirement of the constitution. And further, we recognize the existence of the principle that the rule of equality and uniformity may be violated by a discriminatory method of distribution of the proceeds of taxation. However, this case does not present any such unfair distribution of the benefits of taxation as is condemned by the cited authorities. On the contrary, it comports with the rule stated of reference to the distribution of funds in aid of public education in *Murph* v. *Landum*, 76 S.C. 21, 33, 56 S.E. 850, 854, as follows: 'The idea of apportionment of the public school fund involves a division or distribution among counties or school districts according to some reasonable and uniform rule. It is true the General Assembly has discretion to determine the particular rule of apportionment, as for example, whether it shall be according to population of school age in the respective counties, or according to the enrollment of pupils, or according to the average attendance, or according to some other rule having reasonable relation to the purpose to be subserved by a public school fund and operating throughout the state upon all counties or school districts falling within the reasonable rule of classification. (If) it is to be conceded that while a classification may be adopted so as to deny to one county and give to another, the rule of apportionment must be based upon reasonable difference of condition or situation, as for example, greater illiteracy or less ability to meet the educational demands in one county than in another; but the rule of apportionment shall have uniform application to all within the designated class.'"

D. Compulsory Attendance Statute

1. Sec. 21-757—"All parents or guardians shall cause their children or wards who are in the age group of seven to sixteen years, inclusive, to regularly attend a public or private school of this state which has been approved. . . ."

a. Note: This section was enacted in 1971 and must be implemented not later than July 1, 1974.

E. School Finance Policy Statement

None.

SOUTH DAKOTA

A. General Provisions

1. Art. VI, Sec. 1—"All men are born equally free and independent, and have certain inherent rights among which are those of enjoying and defending life and liberty, of acquiring and protecting property and the pursuit of happiness."

2. Art. VI, Sec. 2—"No person shall be deprived of life, liberty or property without due process of law."

a. *Ex Parte Hawley*, 22 S.D. 23, 115 N.W. 93 (1908), " 'If . . . a statute purporting to have been enacted to protect the public health, the public morals, or the public safety has no real or substantial relation to those objects, or is a palpable invasion of rights secured by the fundamental law, it is the duty of the courts to so adjudge, and thereby give effect to the constitution. . . .' "

3. Art. VI, Sec. 18—"No law shall be passed granting to any citizen or corporation, privileges or immunities which upon the same terms shall not equally belong to all citizens or corporations."

a. *Bon Homme County Farm Bureau* v. *Board of Commissioners*, 53 S.D. 174, 220 N.W. 618 (1928), "And, where a tax is equal and uniform in its application to all persons of the same class within a particular taxing district, it complies with the provisions of section 18, Art. VI of our Constitution."

b. *Barnett* v. *Stewart* 64 S.D. 507, 268 N.W. 425 (1936), "Chapter 134, Laws of 1935, is also attacked upon the ground that it makes an unconstitutional discrimination amongst surety companies. . . . [Section 18, of Article VI of the South Dakota Constitution and section 1 of the Fourteenth Amendment of the U.S. Constitution], commonly called the 'privileges and immunities' provisions, provide, and the courts have generally interpreted them to mean, that it shall be unfair and unconstitutional for the legislature to pass any granting privileges or immunities to one individual, while excluding other individuals of the same class from like privileges or immunities. However, it has been uniformly held by all courts that there may be discriminations between different classes or groups of individuals, even though there can be no discrimination between individual members of one class."

B. Education Provisions

1. Art. VIII, Sec. 1—"The stability of a republican form of government depending on the morality and intelligence of the people, it shall be the duty of the legislature to establish and maintain a general and uniform system of public schools wherein tuition shall be without charge, and equally open to all; and to adopt all suitable means to secure to the people the advantages and opportunities of education."

a. *National College of Business* v. *Pennington County*, 82 S.D. 391, 146 N.W. 2d 731 (1966), "The importance of education to the maintenance of our form of government and way of life was clear to the framers of the constitution of this state . . . [Quotes Art. VIII, Sec. 1]. . . . The exemption statute we are considering in a measure carries out this duty by granting indirect financial aid to private educational institutions in return for their contribution to this essential undertaking."

2. Art. VIII, Sec. 15—"The legislature shall make provision by general taxation and by authorizing the school corporation to levy such additional taxes as with the income from the permanent school fund shall secure a thorough and efficient system of common schools throughout the state. The legislature is empowered to classify properties within school districts for purposes of school taxation. . . . Taxes shall be uniform on all property in the same class."

a. *Kramar* v. *Bon Homme County*, 83 S.D. 112, 155 N.W. 2d 777 (1968), "The constitutional provision relied upon [Art. VIII, Sec. 15] does not expressly prohibit a levy by the county under the statutory formula prescribed by the legislature and we will not imply it. To do so would limit the plenary power of the legislature to provide for education by taxation other than in the manner expressly stated in Art. VIII, sec. 15. . . . The burden of the tax imposed is uniform upon all property in the same class in each common school district in the separate counties of the state and is not violative of the constitutional provision. . . ."

C. Taxing Provisions

1. Art. VIII, Sec. 15, *supra*.

2. Art. VI, Sec. 17—"No tax or duty shall be

imposed without the consent of the people or their representatives in the legislature, and all taxation shall be equal and uniform."

a. *Bon Homme County Farm Bureau* v. *Board of Commissioners, supra,* "But in any event this provision of the constitution means only that the tax must be uniform and equal in the same taxing district. . . . So long as a tax is uniform throughout the county, this provision of the constitution is complied with."

b. *Dean* v. *Coddington,* 81 S.D. 140, 131 N.W. 2d 700 (1964), "Art VI, sec. 17 of our constitution . . . provides: 'All taxation shall be equal and uniform.' The test of uniformity under this section is substantially the same as under the Fourteenth Amendment of the United States Constitution. . . . Plaintiff admits that the taxes levied upon the taxpayer to raise the $9,000,000 appropriated by Chapter 365, Laws of 1963 (foundation program of state support to school districts) were probably uniformly raised, but he contends that the uniformity provision of our constitution is not satisfied unless they are uniformly distributed. . . . In our view, the money . . . is the property of the state and may be used for any public purposes the legislature deems wise. . . . We are satisfied that funds of the state expended to provide reasonable equality of education for all children in the state are spent for a public purpose."

3. Art. XI, Sec. 1—"The legislature shall provide for an annual tax, sufficient to defray the estimated ordinary expenses of the state for each year, not to exceed in any one year two mills on each dollar of the assessed valuation of all taxable property in the state, to be ascertained by the last assessment made for state and county purposes."

4. Art. XI, Sec. 2—"To the end that the burden of taxation may be equitable upon all property, and in order that no property which is made subject to taxation shall escape, the legislature is empowered to divide all property including moneys and credits as well as physical property into classes and to determine what class or classes of property shall be subject to taxation and what property, if any, shall not be subject to taxation. Taxes shall be uniform on all property of the same class, and shall be levied and collected for public purpose only."

a. *Great Northern Ry. Co.* v. *Whitfield,* 65 S.D. 173, 272 N.W. 787 (1937), "Appellant further contends that the 1931 act wherein it makes a separate classification of agricultural lands violates the uniformity clause of our State constitution (Art. XI, Sec. 2), and the Fourteenth Amendment of the Federal Constitution. We think it clear that since the constitutional amendment in 1930, the classification made by the legislature by the act of 1931 was within its power under the State Constitution."

D. Compulsory Attendance Statute

1. Section 13-27-1—"Every person having under his control a child of the age of seven years and not exceeding the age of sixteen years, shall annually cause such child to regularly attend some public or private day school for the entire term during which the public school in the district in which such person resides, or the school to which such child is assigned to attend, is in session, until the child shall have completed the first eight grades of the regular common school course, or shall have reached the age of sixteen years, unless excused as hereinafter provided."

E. School Finance Policy Statement

1. Section 13-13-11—"It is the purpose of sections 13-13-10 to 13-13-41 inclusive, to establish a procedure for the distribution of state funds to local school districts. The following subsections are hereby declared to be the policy of this state:

"(1) Education is a state and local function.

"(2) No one source of taxation should bear an excessive burden of the costs of education.

"(3) In order to provide reasonable equality in school tax rates among the various school districts in the state and to provide reasonable equality of educational opportunity for all children in the state, the state shall assist in giving a basic educational opportunity to each student by contributing foundation program funds toward the support of his educational program.

"(4) Foundation program state aid should be distributed to school districts in accordance with the formula as provided in sections 13-13-10 to 13-13-41, inclusive.

"(5) A minimum of twenty-five percent of the total general fund expenditures of the school districts of the state for the preceding school fiscal year should be distributed annually to school districts as a foundation program.

"(6) No school district should be eligible to receive foundation program state aid which does not provide an educational program which meets the requirements and standards as provided in sections 13-13-10 to 13-13-41, inclusive."

A. General Provisions

1. Art. I, Sec. 8—"That no man shall be taken or imprisoned, or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty or property, but by the judgment of his peers or the law of the land."

a. *Kittrell* v. *Kittrell,* 56 Tenn. App. 584, 409 S.W. 2d 179 (1966), "The phrase 'law of the land' as used in this section and the phrase 'due process of law' as used in the first section of the Fourteenth Amendment to the Federal Constitution are synonymous and a statute which violates one is violative of the other."

b. *Daugherty* v. *State,* 216 Tenn. 666, 393 S.W. 2d 739 (1965), "In Motlow v. State, 125 Tenn. 547, 145 S.W. 177 (1911), it was held that this section of the constitution forbade that any mere individual be singled out for legislative action, but did not deny the right to the legislature to make proper classification for purposes of legislation. Such classification has to rest upon some natural or reasonable basis, having some substantial relation to the public welfare, and the same provisions must approximately apply in the same way to all members of the class."

c. *City of Chattanooga* v. *Harris,* 223 Tenn. 51, 442 S.W. 2d 602 (1969), "It is elemental in our law that the keystone in determining the constitutionality of a statute under this section of the constitution is reasonableness of classification. . . . [C]lass legislation is of two kinds; namely, that in which the classification is natural and reasonable and that in which the classification is arbitrary and capricious. Class legislation whose classification is natural and reasonable is constitutional and valid, but class legislation whose classification is arbitrary and capricious is unconstitutional and invalid."

d. *State* v. *Cummings,* 166 Tenn. 460, 63 S.W. 2d 515 (1933), "It is further insisted that the act here involved [making certain acts a misdemeanor, but only applicable to counties within a certain population range] was designed to affect the county in its political and governmental capacity. While it may so affect the county, as most statutes limited to a particular county do, nevertheless, if it primarily affects the rights of the citizens, without affecting others in like condition elsewhere in the state, it is invalid."

e. See also *State* v. *Trotter,* 153 Tenn. 30, 281 S.W. 925 (1926) and *Hunter* v. *Conner,* 152 Tenn. 258, 277 S.W. 2d 71 (1925).

f. *Marion County, Tenn., River Transportation Co.* v. *Stokes,* 173 Tenn. 347, 117 S.W. 2d 740 (1938), "Whether the constitutionality of the statute is tested by reference to the above provisions of the State Constitution or of the Fourteenth Amendment, the measure is the same, that is to say, if the classification is arbitrary under provisions of the State Constitution it would be arbitrary under the Federal Amendment. By reference to decisions whether of the State or the Federal Constitution, it may be seen that the courts must concede to the Legislature a wide discretion in classification in exercising the taxing power."

2. Art. I, Sec. 17—". . . [A]ll courts shall be open, and every man, for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law. . . ."

3. Art. XI, Sec. 8—"The legislature shall have no power to suspend any general law for the benefit of any particular individual, nor to pass any law for the benefit of individuals inconsistent with the general laws of the land; nor to pass any law granting any individual or individuals, rights, privileges, immunities, or exemptions other than such as may be, by the same law extended to any member of the community, who may be able to bring himself within the provisions of such law."

a. *City of Chattanooga* v. *Harris, supra.*

b. *State* v. *Cummings, supra.*

c. *State* v. *Trotter, supra.*

d. *Hunter* v. *Conner, supra.*

e. *Marion County, Tenn., River Transportation Co.* v. *Stokes, supra.*

f. *Hughes* v. *Board of Commissioners of City of Chattanooga,* 204 Tenn. 298, 319 S.W. 2d 481 (1958), "It is a general rule of law which is applicable in this State that when an Act of the Legislature applies to all who come within the defined terms of the statute, all are treated alike, accorded the same privileges and subject to the same restrictions, a limitation as to certain reasonable exemptions come (*sic*) thereunder will not be held unreasonable and arbitrary as in violation of the sections of the Constitution referred to."

g. *Hill* v. *Snodgrass,* 167 Tenn. 285, 68 S.W. 2d 943 (1934), "An appropriation of state revenue to

a county affects the county in its proprietory capacity, and, if the appropriation confers a special benefit upon the county, from which other like counties are excluded, its citizens and taxpayers are unduly favored, to the prejudice of the citizens of the other counties; a result violative of the constitutional limitation above cited."

B. Education Provision

1. Art. XI, Sec. 12—"Knowledge, learning, and virtue, being essential to the preservation of republican institutions, and the diffusion of the opportunities and advantages of education throughout the different portions of the state, being highly conducive to the promotion of this end, it shall be the duty of the General Assembly in all future periods of this government, to cherish literature and science. And the fund called the common school fund . . . shall be inviolably appropriated to the support and encouragement of common schools throughout the state, and for the equal benefit of all the people thereof. . . ."

a. *Board of Education* v. *Shelby County*, 207 Tenn. 330, 339 S.W. 2d 569 (1960), "The general purpose and plan of the Education Acts passed by the legislature of Tennessee, beginning with the Act of 1925 . . . was to establish and maintain a *uniform system* of public education in this state, public education being primarily a state function." (Emphasis in the original.)

b. *Cross* v. *Fisher*, 132 Tenn. 31, 177 S.W. 43 (1915), "Section 12 of Article XI of the Constitution sets apart the interest on the common school fund to be used for the equal benefit of all the people of the state. But this does not mean that the schoolhouse shall be equally distant from every home, because that is impossible."

c. *Leeper* v. *State*, 103 Tenn. 500, 53 S.W. 962 (1899), "It is said the act denies local self-government. . . . This system is supported in part by state funds, and in part by county taxes. But the latter, at last, are but state funds, provided by the state through the power delegated to the counties. It is insisted that heretofore there has been more or less of local control and government of the public schools, but this local government was authorized by, and was the creature of, the statute, and the legislature is not precluded from framing other statutes, if it deem it wise to do so, modifying former plans. . . . [This court has] held that such an act does not infringe in the slightest degree upon the right of local self-government, that essentially and intrinsically the schools, in which one educated and trained children who are to become rulers of the commonwealth, are matters of state, and not local, jurisdiction; that in such matters the state is the unit, and the legislature the source of power; that the establishment and control of public schools is a function of the general assembly, both under the constitution and because it is a matter of state concern."

C. Taxing Provision

1. Art. II, Sec. 28—"A property real, personal or mixed shall be taxed, but the legislature may except [certain classes of property]. All property shall be taxed according to its value, that value to be ascertained in such manner as the legislature shall direct, so that taxes shall be equal and uniform throughout the State. No one species of property from which a tax may be collected, shall be taxed higher than any other species of property of the same value. . . ."

a. *Metropolitan Government of Nashville* v. *Hillsboro Land Co., Inc.*, 222 Tenn. 431, 436 S.W. 2d 850 (1968), "It is entirely clear, and it has been stated here before, that the constitution grants to the legislature the authority to direct the manner and mode of the ascertainment of the value of real property for taxation. The primary constitutional mandates governing property taxation in Tennessee are that all property shall be taxed, according to its value, and that taxes shall be equal and uniform."

b. *King* v. *Sullivan County*, 128 Tenn. 393, 160 S.W. 847 (1913), "The uniformity required by section 28 of article 2 is limited to uniformity in rate assessment and valuation of the particular tax involved. It has no reference to a uniformity of the sum total of taxes which a citizen is required to pay; that is, it does not require that the total taxes assessed against property situated in a municipality shall not exceed the sum total of taxes assessed against property located outside of a minicipality. It does require that there shall be uniformity of valuation and assessment of property for purposes of taxation, and that the tax levy for any given purpose shall be uniform throughout the territory to which it is applied."

c. *Nashville C&St. L. Ry.* v. *Marshall County*, 161 Tenn. 236, 30 S.W. 2d 268 (1930), "We do not conceive it to be controverted that by special legislation (1) counties may be empowered to make levies of taxes for special purpose, and (2) mu-

nicipal corporations of towns and cities may be empowered to make levies of taxes for special, or general purposes; that as to all such the constitutional requirements of uniformity, either in classification or taxation, do not apply."

d. *American Bemberg Corp.* v. *City of Elizabethton*, 180 Tenn. 373, 175 S.W. 2d 535 (1943), "Taxation must always be uniform and equal throughout the extent of the same jurisdiction. State taxes must be equal and uniform throughout the state; county taxes must be equal and uniform throughout the county; and city taxes must be equal and uniform throughout the city so far as revenues for current expenses or future wants are concerned, though where new territory is added to an existing city all taxation for the payment of the debts of the old city may by statute be confined to the old city which created the debt."

D. Compulsory Attendance Statute

1. Section 49–1708—"Every parent, guardian or other person residing within the state of Tennessee having control or charge of any child or children between the ages of seven (7) and sixteen (16) years, both inclusive, shall cause such child or children to attend public or private day school and in the event of failure to do so shall be subject to the penalties hereinafter provided."

E. School Finance Policy Statement

None.

TEXAS

A. General Provisions

1. Art. I, Sec. 3—"All free men, when they form a social compact, have equal rights, and no man, or set of men, is entitled to exclusive separate public emoluments, or privileges, but in consideration of public services."

a. *Pintor* v. *Martinez*, 202 S.W. 2d 333 (1947), "Even though Leandra was an alien, she was entitled to due process and equal protection of our laws the same as a citizen in all matters save those wherein aliens, for the protection of the public interest, are expressly denied civil rights, such as the right to vote, hold office, etc."

b. *Mims* v. *City of Fort Worth*, 61 S.W. 2d 539 (1933), "We conclude further that the ordinance cannot be held to be invalid on the alleged ground that it was an unwarranted discrimination against persons following plaintiffs' occupation while it exempts the growers or producers of fruits and vegetables offering for sale products grown by them in the markets of the city. It is well settled that the constitutional guaranty of equal rights and privileges to all citizens is not violated by a discrimination in favor of certain classes to the exclusion of other classes, provided there be a reasonable ground for such discrimination.

"It is also a rule that the legislative body has the right, in the first instance, to determine whether or not facts or conditions exist warranting such classifications, and the determination of that issue cannot be disturbed in the absence of a clear showing that there's no reasonable basis thereof."

c. *Lovenberg* v. *City of Galveston*, 17 Tex. Civ. App. 162, 42 S.W. 1024 (1897), "Appellant's third contention must also be overruled. That assessments for local improvement if properly conducted, are not obnoxious to the objection that they deprive the citizen of his property without due process of law, is well established by judicial authority. It is equally well settled that the provision of the constitution requiring uniformity of rule in the imposition of general taxes for the support of government does not so apply as to prohibit the requiring of additional contributions from those so peculiarly situated as to derive especial benefit from a local public improvement."

d. See also *Hurt* v. *Cooper*, 113 S.W. 2d 929 (1938).

e. *Ex parte Baker*, 127 Tex. Ct. of Appeals 589,

78 S. W. 2d 610 (1935), "An ordinance which attempts to distinguish between persons engaged in the same or like business merely on the basis of their residence or the location of their business houses is in contravention of the constitutional provisions herein above quoted. We think such ordinance whether it purports to be an exercise of the police power or the power to tax is discriminatory in that it is not based upon any reasonable classification. . . ."

f. See also *Creps* v. *Board of Firemen's Relief and Retirement Fund Tr.*, 456 S.W. 2d 434 (1970).

2. Art. I, Sec. 19—"No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disenfranchised, except by the due course of the law of the land."

a. *State* v. *Texas City*, 295 S.W. 2d 697 (1956), "The right of property is a fundamental, natural, inherent, and inalienable right, not of grace from the Legislature, but *'ex debito* from the Constitution.' This right of property, which embraces all the incidents of property, is a sacred and fundamental one. . . . Its denial has no place in a government of free men; however, like any other right held in a free society, the right of property is subject to the reasonable exercise of the police and taxing power of the State. So, it can no longer be claimed that the reasonable exercise by the State of its proper power to enact taxing laws or police regulations constitutes deprivation of property without due process of law. It is true also that short of palpable abuse, concerning which *the minds of reasonable men could not differ* [emphasis in text], the right to determine upon the wisdom and reasonableness of legislation lies exclusively in the legislative department—not subject to review by the judicial department on any considerations of wisdom or policy—but only for plain palpable, arbitrary injustice irreconcilable with the natural and inalienable rights of citizens. This is but another way of saying that a claim of deprivation of property without due process is to be determined always as a matter of law, never as a question of fact, although such determination may involve the finding of facts." (Relating to city annexation proceedings.)

b. *Smith* v. *Decker*, 158 Tex. 416, 312 S.W. 2d 632 (1958), "That a right to earn a living is a property right within the meaning of our Constitution was early established by the United States Supreme Court . . . and a person cannot be deprived of it by simple mandate of the legislature."

B. Education Provision

1. Art. VII, Sec. 1—"A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools."

a. *El Dorado Independent School District* v. *Tisdale*, 3 S.W. 2d 420 (1928), "In constitutional terms (section 1, art. 7) it is commanded that the Legislature shall 'establish and make suitable provision for the support and maintenance of an efficient system of public free schools.' The object, manifestly, is a state object; its achievement, as plainly, is to be in consequence of user of state power—governmental *in se* (*sic*). Discretion of considerable latitude is obvious."

b. *Mumme* v. *Marrs*, 120 Tex. 383, 40 S.W. 2d 31 (1931), "Since the Legislature has the mandatory duty to make suitable provision for the support and maintenance of an efficient system of public free schools, and has the power to pass any law relative thereto, not prohibited by the Constitution, it necessarily follows that it has a choice in the selection of methods by which the object of the organic law may be effectuated. The Legislature alone is to judge what means are necessary and appropriate for a purpose which the Constitution makes legitimate. The legislative determination of the methods, restrictions, and regulations is final except when so arbitrary as to be violative of the constitutional rights of the citizen. The general and basic classification made by the act before us divides the schools of the state into two classes: namely, small and financially weak school districts and those which are not so small and weak financially as to need aid to bring their schools up to the average standard of education afforded by our system. This classification undoubtedly has a natural basis, one which actually exists. . . . The type of school which any community can have must depend upon the population of the community, the productivity of its soil, and generally its taxable wealth. The constitutional allocation of the available school fund according to the scholastic population of counties has heretofore resulted in the same inequality of opportunity or discrimination that the natural factors produce, and the general purpose of the Rural Aid Act was to relieve in some measure these natural inequalities by ap-

propriations from a source other than the 'available school fund' as defined in the Constitution.

"Referring now to the basis of the Act, that the Legislature has the right to give aid from the general revenue to financially weak schools, we think the constitutional mandate that the Legislature shall make 'suitable provision for the support and maintenance of an efficient system of public free schools,' ample authority.

"The word 'suitable' used in connection with the word 'provision' in this section of the Constitution, is an elastic term depending upon the necessities of changing times and conditions, and clearly leaves to the Legislature the right to determine what is suitable, and its determination will not be reviewed by the courts if the act has a real relation to the subject and object of the Constitution. . . ."

c. *Treadway* v. *Whitney Independent School District*, 205 S.W. 2d 97 (1947), "There are many respects in which a city can act in a proprietary capacity, but it is hard to imagine how a school district could act in such a capacity, the purpose for which it is created being purely governmental, and when carrying out the functions for which it was thus created it could act only as an agent of the state. . . . As a result of the acts of the Legislature our school system is not of mere local concern but it is statewide. While a school district is local in territorial limits, it is an integral part of the vast school system which is coextensive with the confines of the State of Texas." (Relating to a negligence suit.)

d. *Richardson* v. *Liberty Independent School District*, 22 S.W. 2d 475 (1929), "Again in their essential characteristics there is a fundamental legal distinction between levee improvement districts and other corporations of that character and school districts, either common or independent. Levee districts and other districts, of similar nature are called into existence by their citizenship for the promotion of their own local and private advantage without relation to the advantage of the balance of the citizenship of the state, while school districts are called into existence as a part of the government policy of founding a public school system free to all the inhabitants of the state entitled to its privileges."

C. Taxing Provisions

1. Art. VIII, Sec. 1—"Taxation shall be equal and uniform. All property in this State, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law. . . ."

a. *Millhollon* v. *Stanton Independent School District*, 221 S.W. 1109 (1920).

b. *Hanzal* v. *City of San Antonio*, 221 S.W. 237 (1920), "It is true that a higher charge is made in proportion against shops with a smaller number of chairs than against those with a greater number, but that does not in itself show discrimination, but rather that the inspection of a small shop will cost more in proportion than the inspection of a large shop. . . ." (Relating to a tax imposed on barber shops.)

c. *Weatherly Independent School District* v. *Hughes*, 41 S.W. 2d 445 (1931), "Taxes are 'equal and uniform' within the Constitution when no person or class of persons in the territory taxed, is taxed at a higher rate than others in the same district upon the same values or things and when the objects of taxes are the same. . . ."

d. *Lubbock Hotel Co.* v. *Lubbock Independent School District*, 85 S.W. 2d 776 (1935), "Absolute or perfect equality and uniformity in taxation being impossible of attainment, is not required."

e. *Wheeler* v. *City of Brownsville*, 148 Texas 61, 220 S.W. 2d 457 (1949), ". . . It is clear from the following excerpt that inequities resulting from the application of the rule are not a ground for unconstitutionality:

" 'To hold that each person must receive the same benefit as another may from the expenditures of money raised by taxation would be to hold that the law required an impossibility, for, in the very nature of things, some persons will derive greater pecuniary benefit from the expenditure of money for strictly public purposes than will others. In fact, some may receive no benefit whatever save such as results to them from the preservation of order, protection to property, and the general prosperity which results therefrom, while others may and will be directly benefited by the increased value of their property and increase to their business which results from the expenditure of money raised by taxation, for purposes in every respect strictly public.'

"Certainly a legislative adjustment of those inequities would involve no concern with the constitutional rule under consideration."

f. *James* v. *Gulf Insurance Co.*, 179 S.W. 2d 397 (1944), "The equal protection and the equality and uniformity of taxation clauses do not relate or apply to the expenditure of taxes. They were not

intended to restrict 'the power of the legislature to direct the purposes to which money collected by taxation might be expended, but was (*sic*) intended to secure equality and uniformity in the mode and rate of assessment and taxation—the means employed to supply the treasurery.'" (This concerned an unsuccessful contention by plaintiff that a transfer of tax revenues from a special fund into a general fund would result in an increase of taxes for the plaintiffs in the general fund.)

g. See also *Norris* v. *City of Waco*, 57 T. 635 (1882).

2. Art. VIII, Sec. 1-a—"From and after January 1, 1951, no State ad valorem tax shall be levied upon any property within this State for general revenue purposes. From and after January 1, 1951, the several counties of the State are authorized to levy ad valorem taxes upon all property within their respective boundaries for county purposes. . . ."

D. Compulsory Attendance Statute

1. Section 21.032—"Unless specifically exempted . . . every child in the state who is as much as seven years of age and not more than 17 years of age shall be required to attend the public schools in the district of his residence or in some other district to which he may be transferred as provided or authorized by law a minimum of 165 days of the regular school term of the district in which the child resides or to which he has been transferred."

E. School Finance Policy Statement

1. Section 2.01—"The objective of state support and maintenance of a system of public education is education for citizenship and is grounded upon conviction that a general diffusion of knowledge is essential for the welfare of Texas and for the preservation of the liberties and rights of citizens."

2. Section 16.01—"The purpose of the Foundation School Program is to guarantee to each child of school age in Texas the availability of a minimum Foundation School Program for nine full months of the year and to establish the eligibility requirements for the public school districts of Texas in connection therewith."

UTAH

A. General Provisions

1. Art. I, Sec. 2—"All political power is inherent in the people; and all free governments are founded on their authority for their equal protection and benefit. . . ."

a. *Justice* v. *Standard Gilsonite Co.*, 12 Utah 2d 397, 366 P. 2d 974 (1961), "I agree that a statute, such as the one under consideration, which attempts to include some and exclude others, is unjustly discriminatory unless the exclusions are on the basis of uniform classification so that all who fall within the same class are affected alike and the classification bears some reasonable relationship to the objective sought to be accomplished by the statute." (Concurring opinion.)

2. Art. I, Sec. 7—"No person shall be deprived of life, liberty, or property without due process of law."

a. *Untermyer* v. *State Tax Commission*, 102 U. 214, 129 P. 2d 851 (1942), "The due process clause of the state constitution is substantially the same as the Fifth and Fourteenth amendments to the Federal Constitution. Decisions of the Supreme Court of the United States on the due process clauses of the Federal Constitution are 'highly persuasive' as to the application of that clause of our state constitution."

3. Art. I, Sec. 11—"All courts shall be open, and every person, for an injury done to him in his person, property or reputation, shall have remedy by due course of law."

4. Art. I, Sec. 24—"All laws of a general nature shall have uniform operation."

a. *Justice* v. *Standard Gilsonite Co., supra.*

b. *Gronlund* v. *Salt Lake City,* 113 U. 284, 194 P. 2d 464 (1948), "In determining whether or not a classification made by a legislative body is unconstitutional it must be remembered that discrimination is the very essence of classification and is not objectionable unless founded upon distinctions which a court is compelled to find unreasonable."

c. *Hansen* v. *Public Employees Retirement System Bd. of Admin.,* 122 U. 44, 246 P. 2d 591 (1952), "As to discrimination: An act is never unconstitutional because of discrimination so long as there is some reasonable basis for differentiation between classes which is related to the purposes to be accomplished by the act. And it applies uniformly to all persons within the class." (See also *State* v. *Mason,* 94 U. 501, 78 P. 2d 920 (1938); *State* v. *J. B. & R. E. Walker, Inc.,* 100 U. 523, 116 P. 2d 766 (1941).)

B. Education Provisions

1. Art. VI, Sec. 26—"The legislature is prohibited from enacting any private or special laws in the following cases: . . .

"17. Providing for the management of common schools."

a. *Conover* v. *Board of Education,* 110 U. 454, 175 P. 2d 209, rehearing denied, 112 U. 219, 186 P. 2d 588 (1946), "We concluded, therefore, that the legislature may pass laws which will be general if they operate uniformly and generally upon all school systems of the class created and designated by the constitution itself or all school districts similarly situated."

2. Art. X, Sec. 1—"The legislature shall provide for the establishment and maintenance of a uniform system of public schools, which shall be open to all children of the state, and be free from sectarian control."

a. *Logan City School Dist. v. Kowallis,* 94 U. 342, 77 P. 2d 348 (1938), "The requirement that the schools must be open to all children of the state is a prohibition against any law or rule which would separate or divide the children of the state into classes or groups, and grant, allow or provide one group or class educational privileges or advantages denied another. No child of school age, resident within the state, can be lawfully denied admission to the schools of the state because of race, color, location, religion, politics, or any other bar or barrier which may be set up which deny to such child equality of educational opportunities or facilities with all other children of the state. This is a direction to the legislature to provide a system of public schools to which all children of the state may be admitted. . . . The provision for being open does not apply to matters financial; it does not mean they must be free. It simply means that all children must have equal rights and opportunity to attend the grade or class of school for which such child is suited by previous training or development."

C. Taxing Provisions

1. Art. XIII, Sec. 2—"All tangible property in the state, not exempt under the laws of the United States, or under this constitution, shall be taxed in proportion to its value, to be ascertained as provided by law."

2. Art. XIII, Sec. 3—"The legislature shall provide by law a uniform and equal rate of assessment and taxation on all tangible property in the state according to its value in money, and shall prescribe by law such regulations as shall secure a just valuation for taxation of such property, so that every person and corporation shall pay a tax in proportion to the value of his or her, or its tangible property. . . ."

a. *Harmer* v. *State Tax Commission,* 22 U. 2d 324, 452 P. 2d 876 (1969), "While absolute equality and uniformity in the assessment of property is not practicable, a requirement of reasonable uniformity and equality is essential. The record indicates, and the court below found, that the assessment levels of the land in the State of Utah, or within Utah County, are not reasonably uniform or equal. . . . While it is important that all property throughout the state be assessed on a basis of equality, it is even more important that the property within each county be equalized for tax purposes."

b. *Continental National Bank* v. *Naylor,* 54 U. 49 179 P. 67 (1919), "The proposition is uncontrovertible that, under the constitution and laws above cited, taxation should be uniform upon all property within the jurisdiction of the authority levying the tax. In this connection appellant admits that absolute equality and uniformity involving property is neither necessary or 'humanly possible'."

3. Art. XIII, Sec. 10—"All corporations or persons in this state, or doing business herein, shall be subject to taxation for state, county, school, municipal or other purposes, on the real and personal property owned or used by them within the

territorial limits of the authority levying the tax."

a. *Parry* v. *Bonneville Irrigation Districts*, 71 U. 202, 263 P. 751 (1928), "It is urged that no taxing unit can legally levy any tax which has any extra territorial validity. . . ." (Contention upheld.)

D. Compulsory Attendance Statute

1. Section 53-24-1—"Every parent, guardian or other person having control of any minor between six and eighteen years of age shall be required to send such minor to a public or regularly established private school during the regularly established school year of the district in which he resides. . . ."

E. School Finance Policy Statement

1. Section 53-7-15—"The purpose of this act is to provide a minimum school program for the State of Utah in accordance with constitutional mandate. It recognizes that all children of the state are entitled to reasonably equal educational opportunities regardless of their place of residence in the State of Utah and of the economic situation of their respective school districts or other agencies, and recognizes that although the establishment of an educational system is primarily a state function, local school districts should be required to participate on a partnership basis in the payment of a reasonable portion of the cost of a minimum program. It is the purpose of this act to describe the manner in which the state and school districts shall jointly pay for the costs thereof. Additionally, this act recognizes that each locality should be empowered to provide educational facilities and opportunities beyond the minimum program and accordingly provide a method whereby such latitude of action is permitted and encouraged."

VERMONT

A. General Provisions

1. Chap. I, Art. 1—"That all men are born equally free and independent, and have certain natural, inherent, and inalienable rights. . . ."

2. Chap. I, Art. 7—"That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community, and not for the particular emolument or advantage of any single man, family, or set of men, who are a part only of that community. . . ."

a. *State* v. *Auclair*, 110 Vt. 147, 4 A. 2d 107 (1930), "The State possesses a wide discretion in exercising this phase of its police power [legislative classification] with the qualification that the classification must not be purely arbitrary or irrational, but based upon a real and substantial difference, having a reasonable relation to the subject of the particular legislation."

B. Education Provision

1. Chap. II, Art. 64—"Laws for the encouragement of virtue and prevention of vice and immorality ought to be constantly kept in force, and duly executed; and a competent number of schools ought to be maintained in each town unless the General Assembly permits other provisions for the convenient instruction of youth."

a. *Vermont Educational Building Financing Agcy.* v. *Mann*, 127 Vt. 262, 247 A. 2d 68 (1968), "This provision of our constitution imposes on the General Assembly a duty in regard to education that is universally accepted as a proper public purpose."

C. Taxing Provision

1. Chap. I, Art. 9—"That every member of society hath a right to be protected in the enjoyment of life, liberty, and property, and therefore is bound to contribute his proportion towards the expense of that protection, and yield his personal service, when necessary, or an equivalent thereto . . . ; and previous to any law being made to raise a tax, the purpose for which it is to be raised ought to appear evident to the legislature to be of more

service to community than the money would be if not collected."

a. *Clark* v. *City of Burlington,* 101 Vt. 391, 143 A. 677 (1928), "The constitutional requirement of proportional contributions for the support of the government was not intended to restrict the state to methods of taxation that operate equally upon all its inhabitants. . . . The limitation imposed by our constitution does not forbid any classification of property for the purpose of taxation, or the adoption of any scheme of taxation, provided that they do not offend the Federal Constitution; the equality clause in the one and the uniform clause in the other being in effect the same for such purposes. . . . The legislature possesses a very wide, but not unlimited, discretion in this matter. It is only when the classification adopted conflicts with either or both Federal and State Constitutions that the court can interfere." (See also *Village of Hardwick* v. *Town of Wolcott,* 98 Vt. 343, 127 A. 886 (1925); *Great Atlantic & Pacific Tea Co.* v. *Harvey,* 107 Vt. 215, 177 A. 423 (1935).)

D. Compulsory Attendance Statute

1. Tit. 16, Sec. 1121—"A person having control of a child between the ages of seven and sixteen years shall cause such child to attend a public school continuously for the full number of days for which such school is held, unless such child is mentally or physically unable so to attend or is otherwise furnished with the same education or has completed the tenth grade or is excused by the superintendent or a majority of the school directors as provided in this chapter."

E. School Finance Policy Statement

None.

VIRGINIA*

A. General Provisions

1. Art. I, Sec. 1—"That all men are by nature equally free and independent and have certain inalienable rights. . . ."

a. *Bryce* v. *Gillespie,* 160 Va. 137, 168 S.E. 653 (1933), "An act is not invalid if within the sphere of its operation all persons subject to it are 'treated alike, under like circumstances and conditions, both in the privileges conferred and in the liabilities imposed'."

b. *Richmond Linen Supply Co.* v. *City of Lynchburg,* 160 Va. 644, 169 S.E. 554 (1933), "The legislature, for the purpose of taxation, may classify property . . . ; [We have seen] that equality in taxation, particularly where licenses are concerned, is a dream unrealized, and that differences in methods may be in itself a basis for classification."

2. Art. I, Sec. 11*—"That no person shall be deprived of his life, liberty, or property without due process of law. . . ."

a. *Richmond Linen Supply Co.* v. *City of Lynchburg, supra.*

B. Education Provisions

1. Art. VIII, Sec.1*—"The General Assembly shall provide for a system of free public elementary and secondary schools for all children of school age throughout the commonwealth, and shall seek to ensure that an educational program of high quality is established and continually maintained."

2. Art. VIII, Sec. 2**—"Standards of quality for the several school divisions shall be determined and

*Virginia has adopted a new constitution which went into effect on July 1, 1971. Sections marked with a single asterisk have been carried over from the previous constitution, but with some change; unless otherwise noted the change is not so substantial that cases prior to 1971 would no longer be applicable.

**Double asterisks indicate new provision appearing in the 1971 constitution.

prescribed from time-to-time by the Board of Education, subject to revision only by the General Assembly.

"The General Assembly shall determine the manner in which funds are to be provided for the cost of maintaining an educational program meeting the prescribed standards of quality, and shall provide for the apportionment of the cost of such program between the commonwealth and the local units of government comprising such school divisions. Each unit of local government shall provide its portion of such cost by local taxes or from other available funds."

C. Taxing Provisions

1. Art. X, Sec. 1*—"All property, except as hereinafter provided, shall be taxed. All taxes shall be levied and collected under general laws and shall be uniform upon the same class of subject within the territorial limits of the authority levying the tax, except that the General Assembly may provide for differences in the rate of taxation to be imposed upon real estate by a city or town within all or parts of areas added to its territorial limits, or by a new unit of general government, within its area, created by or encompassing two or more, or parts of two or more, existing units of general government. Such differences in the rate of taxation shall bear a reasonable relationship to differences between nonrevenue producing governmental services giving land urban character which are furnished in one or several areas in contrast to the services furnished in other areas of such units of government.

"The General Assembly may define and classify taxable subjects. Except as to classes of property herein expressly segregated for either state or local taxation, the General Assembly may segregate the several classes of property so as to specify and determine upon what subjects state taxes, and upon what subjects local taxes, may be levied."

a. *Skyline Swannanda, Inc.* v. *Nelson County,* 186 Va. 878, 44 S.E. 2d 437 (1947), "The dominant purpose of these provisions is to distribute the burden of taxation, so far as is practical, evenly and equitably. If it is impractical or impossible to enforce both the standards of uniformity, the latter provision is to be preferred as the just and ultimate end to be attained. . . .

"The record discloses that the uniform assessment of real estate in Nelson County is thirty-five to forty percent of its 'fair market value.' This being true, it was the duty of the board of assessors to use the same yardstick in determining the assessed value of petitioner's tract of land and the improvements thereon."

b. *Washington County Nat'l Bank* v. *Washington County,* 176 Va. 216, 10 S.E. 2d 515 (1940), "If values are high, the rate is low; if the rate is low, values must be raised. With this in mind, any system of taxation which rests upon all citizens ratably meets the requirements of the Fourteenth Amendment to the Federal Constitution. . . . If the burden be uniform upon a class of properties within the territorial limits of the authorities levying the tax, the requirements of our State Constitution are also met.

"The burdens of government, as near as may be, must be ratably apportioned among all its citizens, although absolute equality is never attainable."

2. Art. X, Sec. 4*—"Real estate, coal and other mineral lands, and tangible personal property, except for the rolling stock of public service corporations, are hereby segregated for, and made subject to, local taxation only, and shall be assessed for local taxation in such manner and at such times as the General Assembly may prescribe by general law."

a. *Chesapeake & Potomac Telephone Co.* v. *City of Newport News,* 196 Va. 627, 85 S.E. 2d 345 (1955), "Neither section of the constitution segregates any property or subject to the state, for taxation purposes. Section 171 [now Article X, sec. 4] restrains the imposition of state taxes on the properties which are hereby 'segregated for, and made subject to, local taxation only'."

D. Compulsory Attendance Statutes

1. Art. VII, Sec. 3**—"The General Assembly shall provide for the compulsory elementary and secondary education of every eligible child of appropriate age, such eligibility and age to be determined by law."

2. Section 22-275.1—"Every parent, guardian, or other person in the Commonwealth, having control or charge of any child, or children, who have reached the sixth birthday on or before September thirtieth of the school year and have not passed the seventeenth birthday, shall send such child, or children, to a public school, or to a private, denominational or parochial school, or have such child or children taught by a tutor or teacher . . . , and such child, or children shall regularly attend such school during the period of each year the

public schools are in session and for the same number of days and hours per day as in the public schools."

E. School Finance Policy Statement

1. Section 22-1.261—"Each county, city and town is authorized and required to raise money on all property subject to local taxation at such rate as will insure a sum which, together with other available funds, will provide that portion of the cost apportioned to such county, city or town by law for maintaining an approved educational program, all such funds to be expended by the local school authorities in establishing, maintaining and operating such schools as the maintenance of an educational program meeting the standards of quality prescribed by the State Board of Education may require."

WASHINGTON

A. General Provisions

1. Art. I, Sec. 3—"No person shall be deprived of life, liberty or property without due process of law."

a. *Herr* v. *Schwager,* 145 Wash. 101, 258 P. 1039 (1927), "The provision in the Federal constitution and that of this state being the same, while the holding in [a U.S. Supreme Court case] is not necessarily controlling, it should . . . be given 'great weight'." (Dealing with the state's statute of limitations.)

2. Art. I, Sec. 12—"No law shall be passed granting to any citizen, class of citizen or corporation other than municipal, privileges or immunities which upon the same terms shall not equally belong to all citizens or corporations."

a. *State of Washington* v. *Towne,* 64 Wash. 2d 581, 392 P. 2d 818 (1964), "The provisions of the state and federal constitutions which prohibit the granting of special privileges and immunities and guarantee equal protection of the laws, require that class legislation must apply alike to all persons within a class, and reasonable ground must exist for making a distinction between those within and those without a designated class; but within the limits of such restrictive rules, the legislature has a wide measure of discretion, and its determination, when expressed in statutory enactment, cannot be successfully attacked unless it is manifestly arbitrary, unreasonable, inequitable, and injust." (Upholding a statute limiting the right to a jury trial in minor criminal cases involving city ordinances.)

b. *Alton v. Phillips Co.* v. *State,* 65 Wash. 2d 199, 396 P. 2d 537 (1964), "The aim and purpose of the special privileges and immunities provision of article 1, section 12, of the State Constitution and of the equal protection clause of the Fourteenth Amendment of the Federal Constitution is to secure equality of treatment of all persons without undue favor on the one hand or hostile discrimination on the other."

c. *State* v. *Williams,* 73 Wash. 2d 1, 435 P. 2d 975 (1968), "Due process, equal protection, and privileges, and immunities clauses of federal and state constitutions impose general requirements of reasonableness in the classifications of persons and property to which a tax is applicable." (Upholding an excise tax on leases.)

d. *Markham Advertising Co.* v. *State,* 73 Wash. 2d 405, 439 P. 2d 248 (1968), "The guarantee of equal protection and the prohibition of special privileges and immunities require that class legislation apply alike to all persons within a class, and reasonable ground must exist for making a distinction between those within and those without a specified class." (Upholding the Highway Advertising Control Act.)

B. Education Provisions

1. Art. IX, Sec. 1—"It is the paramount duty of the state to make ample provision for the education

of all children residing within its borders, without distinction or preferences on account of race, color, cost or sex."

a. *Rauch* v. *Chapman,* 16 Wash. 568, 48 P. 253 (1897) "Our constitution seems to have added to the proper and essential functions of free government the maintenance of public schools."

b. *State* v. *Clark County,* 177 Wash. 314, 31 P. 2d 897 (1934), "[In view of this section, a] statute requiring county commissioners to levy a tax sufficient to produce five cents per day for each pupil in attendance in the public schools of the county is a mandatory law; therefore, the county commissioners are without discretionary power to reduce the amount of the school fund which has been authorized thereby. . . . The legislature is required by the Constitution to establish an efficient system of public schools. It is the paramount duty of the state to make ample provision for the education of the children of the state."

c. *Newman* v. *Schlarb,* 184 Wash. 147, 50 P. 2d 36 (1935), "The establishment and maintenance of public schools throughout the state is primarily and essentially a 'state' purpose. . . . Consequently, the state, through the legislature, may not only require such subdivisions to levy taxes for public purposes, but may also fix the amount to be levied by them. . . .

Our decisions have uniformly recognized that, by the declared policy of the state, the duty of educating the children within its borders is fundamental." (Upholding a state law requiring each county to levy a tax sufficient to produce five cents per day for each pupil in the county public schools.)

d. *State* v. *Bruno,* 62 Wash. 2d 790, 384 P. 2d 608 (1963), "The system is infused with a public interest, not only from the standpoint of providing adequate and effective academic training to children, but also from the standpoint of the most effective, efficient and economically feasible investment of public funds. Although local autonomy, in the evaluation of local needs and investment of local funds, is fostered and encouraged, the legislature has recognized, particularly in the areas of future planning, construction, and finance, that total autonomy must yield to the interests of the educational system as a whole and the constitutional obligation of the state to maintain such." (Dealing with the denial of high school accreditation.)

2. Art. IX, Sec. 2—"The legislature shall provide for a general and uniform system of public schools. . . ."

a. *School District* v. *Bryan,* 51 Wash. 498, 99 P. 28 (1909), "An ample provision for the education of children was made paramount, and the duty was imposed upon the legislature of providing a general and uniform system of public schools."

C. Taxing Provision

1. Amendment 14, Art. VII, Sec. 1—". . . . All taxes shall be uniform upon the same class of property within the territorial limits of the authority levying the tax and shall be levied, and collected for public purposes only. . . . All real estate shall constitute one class."

a. *State* v. *Wiley,* 177 Wash. 65, 31 P. 2d 539 (1934), "It is a matter of common knowledge that the purpose of the Fourteenth Amendment [to the *State* constitution] was to permit departure from the rigid requirement of uniformity and equality, making it possible to classify different kinds of property and levy different rates according to classes, to the end, largely, that classes of property known as intangibles might be taxed at rates low enough to offer no inducement for concealment or evasion. While the rule prescribing general uniformity regardless of class of property was abolished by the amendment, uniformity is still required within the classes."

b. *Newman* v. *Schlarb, supra,* "The requirement is that the taxes shall be uniform 'within the territorial limits of the authority levying the tax.' The 'county,' not the 'state,' makes the levy. . . . Within the territorial limits of the county itself, the levy operates uniformly." (In response to the contention that the statute requiring each county to levy a tax sufficient to produce five cents per pupil per day resulted in a wide discrepancy in tax rates and therefore violated the tax uniformity provision.)

c. *State* v. *Kinnear,* 70 Wash. 2d 482, 423 P. 2d 937 (1967), "The Tax Commission argues that the use of a ratio of 25 percent of true and fair value assessed in school districts in one part of the county and the ratio of 20 percent in the remainder is patently not a uniform tax for all alike and similar classes of property. . . . [T]he Tax Commission is correct . . . since the county is the authority levying the tax and not the various school districts as individual taxing units. . . . [T]he ratio must be uniform and apply equally to the same class of property within the territorial limits of the taxing authority."

D. Compulsory Attendance Statute

1. Sec. 28.21. 010, "All parents, guardians and other persons in the state having or who may hereafter have immediate custody of any child between eight and fifteen years of age . . . or of any child between 15 and 16 years of age . . . not regularly and lawfully engaged in some useful and remunerative occupation, shall cause such child to attend the public school of the district. . . ."

E. School Finance Policy Statement

None.

WEST VIRGINIA

A. General Provisions

1. Art. III, Sec. 1—"All men are, by nature, equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot by any compact, deprive or divest their posterity. . . ."

2. Art. III, Sec. 3—"Government is instituted for the common benefit, protection and security of the people, nation or community."

3. Art. III, Sec. 10—"No person shall be deprived of life, liberty, or property, without due process of law, and the judgment of his peers."

a. *State* v. *Wender*, 149 W. Va. 413, 141 S.E. 2d 359 (1965), "The general principle derived from these cases [upholding price-fixing legislation] is that . . . the legislature is vested with a wide discretion in determining whatever economic policy may be deemed to promote the public welfare, which policy the courts are powerless to override provided the laws passed bear a reasonable relationship to the legislative purpose and are neither arbitrary nor discriminatory."

B. Education Provisions

1. Art. XII, Sec. 1—"The legislature shall provide, by general law, for a thorough and efficient system of free schools."

a. *Leonhart* v. *Board of Education*, 114 W. Va. 9, 170 S.E. 418 (1933), "In view of the broad powers enjoyed by the legislature in the absence of constitutional restrictions, as well as the specific provision of section 1 of the article on education, that body has the right to make change in the educational system as it may see fit, subject, of course, to constitutional limitations. . . . School districts are mere governmental subdivisions of the state, which, subject to constitutional limitations, may be created, amended, consolidated, or abolished at the will of the legislature."

2. Art. XII, Sec. 5—"The legislature shall provide for the support of free schools by appropriating thereto the interest of the invested 'school fund,' the net proceeds of all forfeitures and fines accruing to this state under the laws thereof, the state capitation tax, and by general taxation of persons and property or otherwise. It shall also provide for raising in each county or district, by the authority of the people thereof, such a proportion of the amount required for the support of free schools therein as prescribed by general laws."

3. Art. XII, Sec. 12—"The legislature shall foster and encourage, moral, intellectual, scientific and agricultural improvements; it shall, whenever it may be practicable, make suitable provision . . . for the organization of such institutions of learning as the best interests of general education in the state may demand."

C. Taxing Provisions

1. Art. X, Sec. 1—"Subject to the exception in this section contained, taxation shall be equal and uniform throughout the state, and all property, both real and personal, shall be taxed in proportion to its value to be ascertained as directed by law. No one species of property from which a tax may

be collected shall be taxed higher than any other species of property of equal value. . . ."

a. See *In re Assessment of Kanawha Valley Bank*, 144 W. Va. 346, 109 S.E. 2d 649 (1959).

b. *United Fuel Gas Company* v. *Battle*, 153 W. Va. 222, 167 S.E. 2d 890 (1969), "It is well established that a State by its legislature may make reasonable classifications in enacting statutes provided the classifications are based on some real and substantial relation to the objects sought to be accomplished by the legislation. . . ."

2. Art. X, Sec. 5—"The power of taxation of the legislature shall extend to provisions for the payment of the state debt, and interest thereon, the support of free schools, and the payment of the annual estimated expenses of the state."

D. Compulsory Attendance Statute

1. Section 18–8–1—"Compulsory school attendance shall begin with the seventh birthday and continue to the sixteenth birthday."

E. School Finance Policy Statement

1. Section 18–9A–1—"The intent of this article is to provide a plan of financial support for the public schools of this state to be known as the West Virginia public school support program, and to fix statutorily both state and county responsibility for financing of the same. The said school support program shall be comprised of three parts, namely, basic foundation support, supplemental instructional support, and general matching support as funds and provisions are established for such. In enacting this plan, the legislature has in mind the following purposes:

"(1) To provide a basic foundation support for the free schools of the state that will assure a minimum educational base for all children and youth respective of where they may live.

"(2) To provide, through state funds, a supplement to the instructional program that will aid in getting and keeping competent teachers, that will assure a standard term of nine and one-half months, such to be used for increasing classroom instruction time, for in-service improvement of teacher competency, and for meeting other school needs.

"(3) To provide a state-county matching plan that will encourage counties to increase and to maintain their local support over and beyond that required for basic foundation needs."

WISCONSIN

A. General Provision

1. Art. 1, Sec. 1—"All men are born equally free and independent, and have certain inherent rights; among these are life, liberty and the pursuit of happiness; to secure these rights, governments are constituted among men, deriving their just powers from the consent of the governed."

a. *Welch* v. *Henry*, 223 Wis. 319, 271 N.W. 68 (1937), ". . . . [W]hile the legislature may classify persons for purposes of taxation, the classification must be based on reasonable differences or distinctions which distinguish the members of a class from those of another in respects germane to some general and public purpose or object of the particular legislation."

b. *State* v. *Hanson*, 274 Wis. 544, 80 N.W. 2d. 8.2 (1957), "An express guaranty of equal protection of the laws is found only in the Fourteenth Amendment of the constitution of the United States, but since early days it has been read into the Wisconsin constitution."

c. *Haase* v. *Sawicki*, 20 Wis. 2d. 308, 121 N.W. 2d. 876 (1963), ". . . . [T]his court is not inclined to give a more restrictive construction to sec. 1, art. I, Wis. Const., than does the United States Supreme Court in interpreting the due-process and equal-protection-of-the-laws clauses of the Fourteenth Amendment."

B. Education Provisions

1. Art. 10, Sec. 3—"The legislature shall provide by law for the establishment of district schools.

which shall be as nearly uniform as practicable. . . ."

a. *State* v. *Giessel*, 265 Wis. 558, 61 N.W. 2d 903 (1953), "One of its [the state's] major functions is to provide and promote an efficient educational system." (Upholding statute providing compensation for emergency substitute teachers.)

b. *Joint School Dist.* v. *Sosalla*, 3 Wis. 2d 410, 88 N.W. 2d 357 (1958), ". . . [T]his requirement (art. X, sec. 3) applies to the character of the instruction."

2. Art. 10, Sec. 4—"Each town and city shall be required to raise by tax, annually, for the support of the common schools therein, a sum not less than one-half the amount received by such town or city respectively for school purposes from the income of the school fund."

C. Taxing Provision

1. Art. 8, Sec. 1—"The rule of taxation shall be uniform but the legislature may enpower cities, villages or towns to collect and return taxes on real estate located therein by optional methods. . . ."

a. *Estate of Heuel*, 4 Wis. 2d 400, 90 N. W. 2d 634, (1958)—". . . [T]he required uniformity means simply taxation which acts alike on all persons similarly situated."

D. Compulsory Attendance Statute

1. Sec. 118.15 (1) (a)—". . . [A]ny person having under his control a child who is between the ages of 7 and 16 years shall cause such child to attend school regularly. . . ."

E. School Finance Policy Statement

1. Sec. 121.01—"It is declared to be the policy of this state that education is a state function and that some relief should be afforded from the local general property tax as a source of school revenue where such tax is excessive, and that other sources of revenue should contribute a larger percentage of the total funds needed. It is further declared that in order to provide reasonable equality of educational opportunity for all the children of this state, the state must guarantee that a basic educational opportunity be available to each pupil, but that the state should be obligated to contribute to the educational program only if the school district provides a program which meets state standards. It is the purpose of the state aid formula set forth in this subchapter to cause the state to assume a greater proportion of the costs of public education and to relieve the general property of some of its tax burden."

WYOMING

A. General Provisions

1. Art. I, Sec. 3—"Since equality in the enjoyment of natural and civil rights is only made through political equality, the laws of this state affecting the political rights and privileges of its citizens shall be without distinction of race, color, sex, or any circumstances or condition whatsoever other than individual incompetency, or unworthiness duly ascertained by a court of competent jurisdiction."

2. Art. I, Sec. 6—"No person shall be deprived of life, liberty or property without due process of law."

B. Education Provisions

1. Art. I, Sec. 23—"The right of the citizen to opportunities for education should have practical recognition. The legislature shall suitably encourage means and agencies calculated to advance the sciences and liberal arts."

2. Art. VII, Sec. 1—"The legislature shall provide for the establishment and maintenance of a complete and uniform system of public instruction. . . ."

3. Art. VII, Sec. 9—"The legislature small make such further provision by taxation or otherwise, as with the income arising from the general school

fund will create and maintain a thorough and efficient system of public schools, adequate to the proper instruction of all youth of the state. . . ."

C. Taxing Provision

1. Art. I, Sec. 28—"No tax shall be imposed without the consent of the people or their authorized representatives. All taxation shall be equal and uniform."

a. *Unemployment Compensation Comm.* v. *Renner,* 59 Wyo. 437, 143 P. 2d 181 (1943), "Neither due process nor equal protection imposes upon a state any rigid rule of equality of taxation. . . . And the requirement of equal and uniform taxation substantially covers the ground of the due process and equal protection clauses of the Federal and State Constitutions. . . . To be uniform, taxation need not be universal. Certain objects may be made its subject, and others may be exempted from its operation; . . . but, as between the subjects of taxation in the same class, there must be an equality." (The Supreme Court of Wyoming rejected a challenge to the Wyoming unemployment compensation system which was based on the fact that some employers were exempted from paying the unemployment tax.)

D. Compulsory Attendance Statute

1. Section 21.1–48—"Every parent, guardian or other person having control or charge of any child who is a resident of this state and whose seventh birthday falls on or before September 15 of any year and who has not yet attained his sixteenth birthday or completed the eight grade shall be required to send such child to, and such child shall be required to attend, a public or private school each year. . . ."

E. School Finance Policy Statement

1. Section 21.1–106—"The legislature of the State of Wyoming hereby declares that this chapter is passed to provide machinery for the organization of the school districts in this state whereby school districts can be organized to: provide an improved and more equalized educational opportunity for all of the pupils in the state; provide a wiser and more efficient use of public funds for education by making it possible to reduce the disparity in per pupil valuation among school districts. . . ."

a. *Forest Oil Corporation* v. *Davis,* 396 P. 2d 832 (Wyo. 1964), ". . . [T]he benefit to the over-all educational demand is also entitled to reasonable consideration in the redesignation of district boundaries in order that the school tax burden may be more equitably distributed." (Upheld the action of a district boundary board in extending the boundaries.)

b. *Sweetwater County Planning Committee for the Organization of School Districts* v. *Hinkle,* 491 P. 2d 1234 (Sup. Ct. Wyo. 1971), "If ad valorem taxes for school purposes were equalized throughout the State, as required by Art. I, sec. 28, Wyoming Constitution and by the equal protection clause of the Fourteenth Amendment of the United States Constitution, cases such as the one being dealt with would not arise."

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